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# PUBLIC-PRIVATE PARTNERSHIP DEVELOPMENT PROGRAM (P3DP) IN UKRAINE

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## Acronyms and Abbreviations

|         |  |
|---------|--|
| AMD     | Agriculture Marketing and Development Institute                |
| AMC     | Anti-Monopoly Committee of Ukraine                             |
| AmCham  | American Chamber of Commerce                                   |
| ARC     | Autonomous Republic of Crimea                                  |
| AUC     | Association of Ukrainian Cities                                |
| BOOT    | Build-Own-Operate-Transfer                                     |
| BOO     | Build-Own-Operate  |
| BOT     | Build-Operate-Transfer   |
| BPP     | Biomass Power Plant  |
| CCDS    | Climate Change and Development Strategy                        |
| CDCS    | USAID's Country Development Cooperation Strategy 2012 –2016    |
| CLC     | Commercial Law Centre  |
| CMU     | Cabinet of Ministers of Ukraine                                |
| COM     | Cabinet of Ministers   |
| DBFO    | Design-Build-Finance-Operate                                   |
| DESPRO  | Swiss-Ukrainian Decentralization Support Project               |
| DFAIT   | Canadian Department of Foreign Affairs and International Trade |
| EBRD    | European Bank of Reconstruction and Redevelopment              |
| EC-LEDS | Enhancing Capacity for Low Emission Development Strategies     |
| EEF     | Eastern European Foundation                                    |
| ENVSEC  | Environment and Security Initiative                            |
| ESCO    | Energy Service Company   |
| FBOT    | Finance-Build-Operate-Transfer                                 |
| FBOOT   | Finance-Build-Own-Operate-Transfer                             |
| FHI360  | FHI Development 360  |
| GCC     | Global Climate Change  |
| GCCI    | Global Climate Change Initiative                               |
| GDP     | Gross Domestic Product   |
| GHG     | Greenhouse gas   |
| GHI     | Global Health Initiative                                       |
| GIZ     | Deutsche Gesellschaft für Internationale Zusammenarbeit        |
| GOU     | Government of Ukraine  |
| IBRD    | International Bank for Reconstruction and Development          |
| IBSER   | Institute for Budgetary and Socio-Economic Research            |
| IFC     | International Financial Corporation                            |
| IMF     | International Monetary Fund                                    |
| KEI     | Kyiv Economic Institute  |
| KCSA    | Kyiv City State Administration                                 |
| LAESM   | Local Alternative Energy Solutions in Myrhorod Project         |
| LEDS    | Low Emissions Development Strategy                             |
| LGBT    | Lease-Renovate-Operate-Transfer                                |
| M&E     | Monitoring and Evaluation                                      |
| MARPs   | Most-At-Risk-Populations                                       |
| MEP     | Ministry of Environmental Protection of Ukraine                |
| MHR     | Municipal Heating Reform                                       |
| MOEDT   | Ministry of Economic Development and Trade                     |
| MRDCH   | Ministry of Regional Development, Construction and Housing     |
| MLC     | Municipal Law Center   |
| MSFI    | Municipal Finance Strengthening Initiative                     |
| NAESCO  | National Association of Energy Service Companies               |
| NAPA    | National Academy of Public Administration                      |
| NATO    | North Atlantic Treaty Organization                             |

|               |  |
|---------------|--|
| NCCSR.....    | National Commission of Communal Services Regulation          |
| NCMSR.....    | National Commission on Municipal Services Regulation         |
| NGO .....     | Non-Governmental Organization                                |
| NPA .....     | National Project Agency                                      |
| OECD .....    | Organization for Economic Co-operation and Development       |
| OSCE.....     | Organization for Security and Cooperation in Europe          |
| PIEC .....    | PPP & Infrastructure Expert Center                           |
| PPP .....     | Public-Private Partnership                                   |
| P3DP.....     | Public-Private Partnership Development Project               |
| REC.....      | Regional Environmental Centre for Central and Eastern Europe |
| REDS .....    | Resource Efficient Development Strategy                      |
| ROT .....     | Rehabilitate-Operate-Transfer                                |
| RT .....      | Round Table  |
| SIP.....      | [PPP development] Strategy Implementation Plan               |
| SME .....     | Small and Medium Enterprises                                 |
| SPA.....      | State Property Agency  |
| SWM.....      | Solid Waste Management                                       |
| TA .....      | Technical Assistance   |
| U-Media ..... | USAID's Strengthening Independent Media in Ukraine           |
| UNDP .....    | United Nations Development Program                           |
| UNECE .....   | United Nations Economic Commission for Europe                |
| UNEP.....     | United Nations Environment Program                           |
| UNITER .....  | National Initiatives to Enhance Reforms                      |
| USAID .....   | United States Agency for International Development           |
| USUBC.....    | USUBC  |
| VRU .....     | Verkhovna Rada of Ukraine (Parliament)                       |
| WB.....       | World Bank   |
| WG .....      | Working Group  |

## Executive Summary

Year 4 was marked by major, disruptive changes in Ukraine that included a popular uprising, a new, pro-reform government, war with Russia and Russian-backed separatists, an energy crisis, and the near-collapse of the economy. These events dramatically increase the need for investment, an improved business climate, and private sector participation in infrastructure and public services through public-private partnerships. P3DP's work addresses these issues and is timely in introducing PPP mechanisms when they are so urgently needed.

Throughout the life of the Program, the Government of Ukraine has experienced a growing awareness and understanding of the role of PPPs in attracting private investment, technology, and managerial skills. In addition, P3DP has taken a flexible approach in adapting to the crisis, first by limiting its engagement with the former Yanukovich regime during the Maidon period, then by engaging the new, reformist government to improve the legislative environment. P3DP adjusted its focus to respond to the rapidly changing environment, increasing reform efforts while tailoring down support to pilot PPP project preparation. P3DP also co-established a new institution, the PPP and Investment Expert Center (PIEC), which creates a sustainable platform for uniting reform efforts and facilitating cooperation between the private sector and government to improve the environment for PPPs and introduce projects in key sectors.

Throughout this tumultuous period, P3DP continued to make progress in moving pilot PPPs toward tendering and increasing government capacity to develop PPPs that contribute to improving infrastructure and public services, economic development, mitigation of global climate change, and the investment climate. P3DP's work also supports Ukraine's developmental objectives in addition to USAID's Country Development Cooperation Strategy and its Global Climate Change and Development Strategy in Ukraine.

P3DP works with government partners at the municipal and national levels, the business community, other donor-funded projects, international financial institutions, NGOs, and other stakeholders to improve legislation, establish institutional support, enhance PPP capacity among key stakeholders, and guides replicable pilot PPP transactions from concept to implementation. This multi-faceted approach creates the environment and instills the knowledge and skills necessary for national, regional, and municipal government entities to mobilize private-sector finance and expertise to improve infrastructure and public services through economically viable, replicable PPP projects that accelerate climate-resilient, low-emission economic development in Ukraine.

### **Key achievements in Year 4:**

Prior to Year 4, P3DP's major accomplishments included working with the MOEDT to develop a national PPP policy, establish the PPP Unit, and develop procedures for developing and implementing PPPs. P3DP also developed amendments to legislation and decrees for improving the environment for PPPs, developed and conducted PPP training courses, and launched pilot PPPs in numerous sectors throughout the country. During Year 4, these efforts led to concrete outputs and results that will further PPP development beyond the life of the program.

## Improving the Legislative and Policy Framework

P3DP was the lead author of proposed amendments to the draft law On Amendments to the PPP Law and various resolutions of the Cabinet of Ministers of Ukraine (CMU) that are expected to be approved in October. Adoption of these measures will improve the PPP and general business environment by reducing corruption opportunities in procurement; refining tendering procedures; introducing economically viable tariff policies in solid waste and other sectors; establishing “green” tariffs that induce environmentally sound investments; and simplifying the process to develop, evaluate, and implement PPP projects. The proposed amendments are already on the agenda of the Verkhovna Rada and the draft decrees are in the final stage before CMU adoption. Highlights of this work during Year 4 include the following:

- Development of the draft law *On Amendments to the PPP Law*, which has been included on the parliamentary agenda. The proposed amendments affect tendering procedures, tariff policies, and PPP monitoring; introduce international arbitration and increase investor protections; and add transparency to the process of land allocation needed for PPPs.
- Adoption of some laws on leasing and concessions by the Verkhovna Rada;
- Development of two draft laws on energy efficiency and another on long-term budget commitments which were extensively discussed with stakeholders;
- Changes to a number of Cabinet of Minister of Ukraine (CMU) decrees developed and brought to the final stage before CMU adoption. These include recommendations on legislation impacting PPPs, including the “green tariff,” draft laws on energy performance contracts, risk assessment methodology, solid waste management tariff methodology and concessions.

## Providing Support to the MOEDT

P3DP played a significant role in the establishment of the MOEDT’s PPP Unit, which is tasked with providing guidance and support to municipalities and state agencies creating PPPs monitoring the performance. P3DP helped to clarify and solidify the Unit’s role and authority and increased their capacity to fulfill their responsibilities. Procedures were established and tools created to facilitate creation and evaluation of PPPs, guide their implementation, and monitor their performance. P3DP assisted Unit staff to gain practical experience and test the processes through the successful creation of a PPP pilot project.

Under Objective 2, P3DP also co-established the PPP & Infrastructure Expert Center (PIEC) in collaboration with the American Chamber of Commerce in Ukraine and with support from the MOEDT and the Ministry of Regional Development, Construction, Housing and Communal Services. PIEC serves as a platform for private sector and other stakeholders to collectively advocate for legislative and policy reforms needed for the development of PPPs in Ukraine. In addition, it creates a sustainable mechanism that unites governments and investors in the development of viable PPPs in infrastructure and public services.

P3DP also began its PPP Guidance Note series, which disseminate best practices on PPPs, and organized two PPP study tours to neighboring countries, Poland and Turkey, where MOEDT and other GOU officials and leaders of eastern and southern municipalities learned best practices in PPP implementation.

## Building Knowledge and Capacity

P3DP has developed a significant body of education materials that can be used to train officials, potential private operators, civil society, media and other stakeholders about the benefits, design, implementation and management of PPPs in Ukraine. The materials include core PPP knowledge; technical skills such as financial modelling, environmental analysis, and evaluation; and the management of PPPs. A “train the trainer course” using these materials and case studies based on P3DP pilot PPPs will be delivered in the coming year to faculty and instructors currently teaching or now developing PPP courses. Materials are also being shared with the PPP Unit, educational institutions, PIEC, and will serve as resources for the online PPP course now being developed.

P3DP provides representatives of municipal, regional and national government bodies access to PPP knowledge and skills, enabling them to more effectively partner with the private sector. In spite of political turbulence during the reporting period, P3DP developed and delivered numerous training programs and courses, including:

- Workshops on PPP financial analysis and modeling in pilot PPP cities;
- PPP project management training for municipal leaders;
- Created a Train-the-trainers workshop that will provide trainers and faculty members skills needed to train future public servants tasked with PPP development;
- Local study tours, resulting in replication of the Vinnystia solid waste management project in Ivano-Frankivsk.

## Pilot PPP Projects

P3DP is developing pilot PPP projects in municipalities in key sectors such as renewables and energy efficiency, solid waste management, parks and recreation, healthcare, transport, and education. The process of developing the pilots helps guide PPP reform efforts and contributes to improved local governance and public services. They also have a positive impact on greenhouse gas emissions and improved energy efficiency in Ukraine, and have the potential for replication nationwide.

Key developments include:

- The successful tender and award of the Renewable Energy Pilot PPP in Malyn, which has engaged a private operator to use renewable biofuel pellets to heat municipal buildings, particularly schools. This will reduce municipal heating costs by approximately 10 percent, reduce greenhouse gas emissions by 11,000 tons, and increase Ukraine’s energy

independence. It is expected that this pilot will be replicated by multiple cities to create opportunities for other SMEs;

- P3DP provided the Kyiv City Administration with assistance in creating PPP agreement and tender to build and operate a park and recreational facility;
- The Vinnitsya Landfill Gas Utilization and Electricity Production PPP pilot was developed and approved by the PPP Unit. The tender is expected in early Year 5.
- In Ivano-Frankivsk, a feasibility study is underway;
- An engineering design was completed for the Lviv parking PPP;

P3DP made progress in spite of serious challenges due to the political crisis in Ukraine, which impacted pilot municipalities in addition to the national government. P3DP is maintaining its flexible approach and closely coordinating with USAID so that the Program adapts to changing circumstances and continues to make progress and achieve results.

## Mitigating Climate Change through PPPs

P3DP pilots will mobilize private sector finance and introduce new technologies and managerial skills that play a major role in increasing energy efficiency and mitigating climate change. Long dependent on fossil fuels and gas imports from Russia, Ukraine is a major contributor of carbon emissions on a per-capita basis.

Introduced PPPs in alternative energy and solid waste management will increase Ukraine's climate resilience, enable low-emission economic development, and increase the country's energy independence. It is estimated that P3DP's pilot PPP in biofuel and landfill gas utilization PPPs will reduce greenhouse gas emissions by 927,150 tons of CO<sup>2</sup> equivalent.



## Introduction

Year 4 of the Program coincided with one of the most transformational periods in Ukraine's modern history. Although marked by instability and upheaval, Ukraine in September 2014 is positioned to undergo significant economic, legislative and political change that will require greater private sector participation in the economy and an improved business and investment climate. Public-private partnerships will play an important part in this process by enabling private sector financing, managerial expertise and technical know-how to contribute to Ukraine's reconstruction and development. USAID, by playing a central role in laying the groundwork for PPPs during the last four years through P3DP, will have made an important contribution to this process.

The significance of the last year's events to Ukraine's development cannot be overstated. Key events include:

- **Public uprising.** The Maidan Revolution, which began in November 2013 as a popular protest against then-President Yanukovich's decision to reject association with the EU in favor of Russia's Customs Union. In February 2014, Yanukovich and key officials fled the country.
- **New government.** Petro Poroshenko was elected president on May 25, 2014. His government favors integration with Europe and supports reform. In June, President Poroshenko signed the EU Association Agreement, which commits Ukraine to a reform-oriented path and marks a clear break from Russia.
- **War with Russia.** Russia occupied Ukraine's Crimean peninsula and annexed it in March. In April, Russia triggered separatist uprisings across southern and eastern Ukraine by providing military leadership, weapons, mercenaries and financing.
- **Economic disruption.** Ukraine's economy, already sickly, has suffered greatly from events in the last year. The war has destabilized an important economic region of the country and added significant costs to government. The Role of the Private Sector in Reconstruction and Development

These developments, however grim, have put Ukraine into a position where reform is unavoidable if it is to survive. Ukraine urgently needs to stabilize its economy, achieve peace in eastern Ukraine, reduce its energy dependency on Russia, rebuild damaged infrastructure and buildings, and strengthen economic ties to the West.

Public-private partnerships are no longer an option for Ukraine's government; they are a necessity for the country's modernization and development. P3DP's work to develop the PPP mechanism is therefore both timely and important for Ukraine's business environment, ongoing economic development, and long-term stability. PPPs will contribute by:

- Allowing the cash-strapped government to finance infrastructure and public services from private sector sources;

- Enabling private sector expertise to manage infrastructure and public services, which brings greater efficiencies and compensates for a lack in government capacity;
- Improving the overall business environment through transparent procurement processes, which are a key element of PPPs.
- Encouraging dialogue between government and the private sector, which leads to more robust economic policies and legislation;
- Promoting environmental sustainability throughout the reconstruction and developmental process, especially as Ukraine reduces its dependency on Russia gas through alternate fuel sources and increased energy efficiency;
- Facilitating investment and economic development in critical areas such as transportation, solid waste management, energy, water, communication and education.

### Mitigating Global Climate Change (GCC) and Promoting Clean Energy

P3DP integrates the mitigation of climate change and promotion of the use of clean or renewable energy throughout its program in accordance with USAID's Global Climate Change and Development Strategy. These cross-cutting initiatives ensure that PPP development in Ukraine supports a low-emissions strategy in Ukraine. P3DP's work in this area consists of three mutually-supporting activities:

- Introducing legislative changes that support the reduction of GHG emissions;
- Instilling knowledge and awareness of climate change and energy efficiency among key decision makers through training and capacity building;
- Developing pilot PPP projects that increase energy efficiency and introduce use of renewable fuel.

Implementing these strategies will be particularly important during Year 5, as Ukraine's reconstruction and development work gets underway. Ukraine's emphasis on energy independence makes clean and renewable energy especially important.

P3DP's work supporting mitigation of climate change include:

- **Demonstrating Reduced Emissions through Pilot PPPs.** Key pilot projects reduce emissions by either burning landfill gas or agricultural waste to generate electricity or produce heat, thereby reducing fossil fuel consumption. The Malyn Alternative Fuel PPP will enable alternative fuel to heat schools, starting in the 2014-15 heating season. The Landfill Gas Utilization PPPs in Vinnytsia and Ivano-Frankivsk will generate under the "green tariff" rates, which will make the project more attractive to private investors. An independent study estimated that these three projects will prevent 927,150 tons of CO2 emissions from being released into the atmosphere. Anticipated reductions in electricity consumption generated from non-renewable sources for these three projects total 230,989,434 kWh. These are on track for reaching tender in Year 5. Given the energy crisis in Ukraine, these pilots are expected to have strong demonstration effects that lead to greater adoption of similar PPPs throughout Ukraine.

- **Promoting the “Green Tariff.”** The “green tariff” provides a financial incentive to generate energy produced from renewable sources, such as biogas. P3DP provided recommendations through participation in the Working Group of the Parliamentary Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety that led to a draft law finalized at the Parliament Committee meeting on June 18, 2014. The draft law amends existing legislation by implementing a “green tariff” for energy produced from waste, simplifies implementation of biogas projects under the “green tariff,” and improves methods of calculating energy payments of enterprises. If passed, the law will facilitate the launching of more PPP projects in the SWM sector that have positive impact on the environment.
- **Energy Performance Contracts.** P3DP supported the Ministry of Regional Development, Construction, Communal Services and Housing and National Commission on Communal Services Regulation in finalizing draft laws on energy performance contracts for submission to the Cabinet of Ministers. The draft laws were posted on the Ministry of Regions website for public discussion. If passed, the revised laws will stimulate the energy efficiency market and facilitate investments in the sector. P3DP coordinates efforts with other USAID funded projects such as the Municipal Energy Reform Project to ensure maximum impact.
- **Promoting Energy Efficiency through PPP Policy.** P3DP provided significant input to the MOEDT as it developed its PPP policy and strategy for Ukraine through 2018, which identifies energy efficiency in the delivery of communal services and the energy sector as priority areas for the PPPs in Ukraine. It also identifies the PPP mechanism as a tool that can be applied in pursuit of environmental protection.
- **Budget Code Amendments.** P3DP recommended changes to the budget code to encourage broader use of energy services contracts. If changes are accepted, investments into energy efficiency in public buildings will be enabled, guaranteeing the investors returns from the saving from energy efficiency measures. As the result, the energy consumption of public buildings will be decreased; the buildings will be renovated with modern energy saving technologies and means; carbon emissions will be reduced and additional jobs for highly qualified staff in the sector will be created.

## Looking Forward

With pro-reform government in place and a clear, urgent need for private sector participation in reconstruction and development efforts, P3DP is well-placed to build on its accomplishments to accelerate PPP development in Year 5 of the Program. Complementing its work on the legal framework, P3DP expects a strong increase in demand for PPP training, analytical skills, and materials. Growing awareness of PPP benefits couple with mounting budgetary demands is creating incentives to turn to the private sector.

P3DP is responding to the increasing need for PPPs in ways that ensure that its impact will continue beyond the duration of the Program. First, P3DP is developing Ukrainian-language training and knowledge materials on PPPs that can be used by the MOEDT's PPP Unit to support regional and municipal PPP efforts throughout Ukraine. These materials will also help the relevant government officials at the national, regional, and municipal levels better understand core PPP concepts as they design and implement their own projects. The materials draw from international best practice, Ukraine's own experience, and P3DP's work on improving PPP legislation and implementing pilot PPP projects.

P3DP is also accelerating work to strengthen the business and investment climate through PPPs. National PPP policy, core legislation, and the PPP procedure has already been put in place and tested through actual PPP projects. Still, further work is needed to advocate for proposed changes and further strengthen legislation, decrees and resolutions that impact private sector participation in infrastructure and public services. Greater emphasis is needed to further dialogue between government and the private sector so that the latter can have meaningful input into policy development.

Finally, P3DP is increasing cooperation with educational institutions and business associations, including the American Chamber of Commerce, so that they can continue to facilitate PPP development after the Program ends. This ensures that the lessons learned during the Program are captured, shared, and used to further the use of PPPs in Ukraine.

## The Potential Role of PPPs in Rebuilding Infrastructure in Post-Conflict Ukraine

Many of the ills facing Ukraine have been severely exacerbated by the conflict and ongoing economic and political issues with Russia. The Government of Ukraine is poorly positioned to manage post-conflict reconstruction and development without assistance from the international community and the private sector. The conflict has created a greater urgency for infrastructure and public services, including services directed towards internally displaced persons (IDPs).

The urgency of conflict-related issues, however, creates unique opportunities to accelerate reform and bolster the case for greater private sector engagement in post-conflict development of infrastructure and public services through PPPs. Well-structured PPPs can:

- Enable government to leverage its own budget with private sector financing
- Provide access to private sector strengths, including financing, technology, management skills, flexibility and speed
- Transfer risks to those best positioned to manage them, for example, construction and operational risks, which are best assumed by the private sector.

The use of donor assistance has been successful in many post-conflict environments, for example, in the restoration of power infrastructure in Liberia. Donor engagement provides comfort to private sector investors and operators in risky environments. Through mechanisms such as output-based contracts, donor funding can help governments develop infrastructure and provide public services in partnership with private operators in challenging environments.

The potential benefits of the rehabilitation of infrastructure and restoration of public services is essential for Ukraine as it emerges from war and builds a stronger democracy following the parliamentary and presidential elections of 2014:

- Rebuilding infrastructure quickly creates jobs, improves access to welfare-raising goods and services, and attracts capital into areas otherwise unlikely to do so;
- Restored infrastructure and services contributes to economic growth necessary to secure a lasting peace;
- Businesses can create jobs for frustrated citizens, bridge social divides, and restore confidence in Ukraine's new government, thereby impeding a slide back into war.

The private sector can be instrumental in improving the size and efficacy of expected capital flows into Ukraine. Private sector participation adds capital, expertise and focus. Despite the difficult conditions in the Donbas, it is possible for GOU to define workable and desirable PPP arrangements that will help to achieve infrastructure and service goals and attract local and foreign capital and expertise. By making the appropriate policy decisions and correctly assessing its institutional and supervisory capacity, the GOU can find the right degree of private sector involvement for each area of infrastructure that needs to be rebuilt.

## Objective 1: Improving the Legal and Institutional Framework for PPPs

*Although Ukraine faced tremendous political, social and economic challenges during the past year, the resulting upheaval created possibilities for real regulatory and legislative reform. To take advantage of this “window of opportunity”, P3DP significantly increased the level of technical assistance devoted to improving the business enabling environment in general and the legal, regulatory and institutional framework specifically. The new Government of Ukraine placed a special priority on reducing corruption, and P3DP’s achievements during the past year contribute to openness, fairness, and effectiveness of public procurement through PPPs. Additionally, the heightened need for investment into infrastructure and public services magnify the need for economically viable tariffs. P3DP efforts resulted in reforming practices in key sectors and in improving application of “green tariffs” that motivate investment in clean and renewable energy.*

During Year 4, Ukraine saw a protest movement that spread from Kyiv’s Maidan throughout the country, leading to the fall of the Yanukovich government. An interim government was established in March 2014, followed by the election of President Poroshenko in May. Parliamentary elections are scheduled for October, holding the promise for continued reform. The EU Association Agreement, opposed by Russia and Yanukovich, was signed in June and ratified by the Ukrainian and European parliaments in September.

### **Increased Focus on Corruption, Transparency, and Decentralization**

Despite open Russian aggression in Crimea and eastern Ukraine, the Government of Ukraine was able to take a number of steps demonstrating commitment to tackling corruption, attracting investment, and instituting needed reforms. Prime Minister Yatsenyuk’s government clearly stated their goals of restoring economic stability, unifying the country, and moving Ukraine towards Europe. The GOU has also been holding talks with international financial institutions, including the International



Verkhovna Rada of Ukraine

Monetary Fund and the World Bank, for financial support.

Transparency in procurement, an area in which PPPs are highly effective, is a priority area. In April 2014, Parliament passed a law to make state procurement more transparent by eliminating several unnecessary bureaucratic procedures and requiring official procurement reports to be published for public review. Offshore companies, long used as vehicles for illicit funds, can now be barred from participating in public procurement tenders. These measures are a clear indicator of the

government's determination to implement constructive reform.

Momentum for reform has been gathering pace. The EU Association Agreement requires Ukraine to improve legislation and transparency, and reduce corruption. And in August, a draft law was approved by the Verkhovna Rada that provides a unified system for better evaluation, selection and management of public investment projects. The bill contains budget policy guidelines and reforms needed to satisfy World Bank prerequisites for releasing their next tranche of financial assistance, as well as improving the environment for public-private partnerships.

*The new Government of Ukraine placed a special priority on reducing corruption; P3DP's achievements during the past year contribute to openness, fairness, and effectiveness of public procurement through PPPs.*

Decentralization is another important objective that has implications for PPPs. In June, a new law was passed that enables municipal governments to transfer municipal and financial responsibilities to each other, including the implementation of regional-level investment projects (for example, landfills). This development enhances the attractiveness of local PPP and other infrastructure investment projects supported by municipal guarantees.

The implication of these developments is that improving the legal framework in Ukraine will take on greater significance in the final year of P3DP operations and beyond. After consultation with USAID, P3DP revised its Program Description and workplan to allocate 50 percent of program resources to strengthening the legal and regulatory framework in Ukraine. In doing so, PPPs are positioned to play a bigger role in Ukraine's economic development and in improving the overall business environment.

The envisaged emphasis will be on improving policies and laws where PPPs can have a bigger impact, such as SVM tariffs, the budget code, concession legislation, and specific areas such as energy performance contracts, green tariffs, and risk assessment and appraisal of proposed projects.

P3DP is well-positioned to facilitate the aims of the new GOU. Achievements over the last four years has laid the groundwork for PPP development, which in turn promotes economic development, increases transparency, and provides incentives for energy efficiency and renewable energy.

A summary of P3DP's assistance delivered through Objective 1 can be found under Annex 2.

## **1.1 Improving the Legal Framework for PPPs**

### **Monitoring the PPP Legislative Environment**

Throughout Year 4, P3DP monitored activities in the legislative environment affecting PPPs which enabled tailoring of assistance efforts. These legislative



developments were shared with USAID in monthly Legislation Development Assessment Reports. Input from PPP pilot projects and strategic stakeholder communication activities also helped P3DP identify and prioritize legislative issues that hinder PPP development in Ukraine.

Legislative priorities include:

- The PPP Law and related legislation, such as licensing, concessions and risk assessment, need to be strengthened to address important shortcomings that discourage use of PPPs;
- “Green tariff” regulations regarding energy produced from alternative resources do not provide sufficient rules and incentives for development (e.g. bioenergy through SWM) and should be simplified and improved;
- Energy efficiency has become a priority due to Ukraine’s dependence on Russia for gas. Legislation is needed to provide the incentives needed to spur investment and development of the sector;
- In the SWM sector, gaps between tariff approval authority and regulation of the sector need to be eliminated;
- Municipalities need to adopt procedures for processing PPPs to avoid or mitigate legislative risks of non-compliance.

### PPP Concept, Development Strategy, and Implementation Plan

P3DP assisted GOU policymakers in developing a PPP development framework consisting of a PPP Development Concept, the National PPP Strategy on PPP Development, and a Strategic Implementation Plan (SIP) to guide policy. These aim to provide the foundation for collaboration between the public and

### Addressing Corruption through PPPs

As a result of extensive P3DP technical assistance provided during the past year, the Cabinet of Ministers of Ukraine approved reforms "On Efficiency Analysis and Tender Procedures of Public-Private Partnerships", Decree #384. This significant new PPP legislation introduces international arbitration as a means for settlement of disputes; increases protection from introduction of new or cancelation of existing legislation that impacts the rights of the private partner; and simplifies the procedure of PPP preparation and approval – No longer will municipalities need to seek approval of the proposed PPPs from the national government. Each of these features mitigates opportunities for corruption. Additionally, this new legislation simplifies and introduces transparency into the process of allocating land needed for the PPP.

P3DP also contributed to drafting and advocating for now adopted "Amendments to law of Ukraine on leasing of objects of communal property though concession in sectors of water supply and heating supply." This reform introduces the requirement of open and competitive tendering of water and heating concessions. This significantly reduces opportunities for corruption in the previously opaque process.

private sectors on the development PPPs for infrastructure and public services.

The PPP Development Concept was approved 2013 with the publication of the Cabinet of Minister’s Decree #739, creating a broad framework for further PPP development in Ukraine. P3DP also drafted a law, On PPP Development Strategy, which



was submitted by the MOEDT to the Ministry of Justice, Ministry of Finance and other GOU Agencies for approval.

In Year 4, however, the crisis led to a new government facing a conflict situation. The new government did not adopt the PPP Development Strategy and instead recommended further modifications to the draft law on amendments to PPP legislation. At the same time, P3DP held discussions with MOEDT to implement an Action Plan based on the PPP Development Concept to guide policy development, creation of programs, and related government activities.

### Strengthening the 2010 PPP Law and Relevant Sub-Laws

Numerous shortcomings and contradictions in the PPP Law and relevant sub-laws have obstructed the use of PPPs. P3DP therefore contributed recommendations, clauses, and edits to the proposed amendments to the existing PPP Law and sub-laws. P3DP is active in tracking all other PPP-related initiatives and taking appropriate actions to tailor or support their adoption, such as MOEDT4466a and 4483a.

In July, P3DP conducted two public hearings for key government officials, technical experts, and other stakeholders to assess proposed amendments to the draft law on PPPs. Over 100 participants provided feedback. P3DP considered has provided expert comments to the draft submitted to the Verkhovna Rada.

P3DP has been monitoring progress on the proposed amendments as well as other P3DP proposals still in the approval process. Sub-laws and decrees with P3DP input include the following:

- **Green Tariff.** In April, P3DP provided recommendations on the “green tariff” mechanism in solid waste management at session of the Parliamentary Working Group of Fuel and Energy Complex Parliament Committee. This resulted in a draft law developed on the basis of draft law #4644, which was finalized at the Parliament Committee meeting on June 18, 2014. The draft law amends existing legislation by implementing a “green tariff” for energy produced from waste. It encourages private investment and simplifies implementation of biogas projects under the “green tariff” and improves methods of calculating energy payments to enterprises. The draft is expected to be registered in Verkhovna Rada during the next quarter. If passed, the law will make PPPs in the SWM sector more economically viable and induce private participation in the sector.
- **Energy Performance Contracts.** In May 2014, P3DP supported the Ministry of Regional Development, Construction, Communal Services and Housing and the National Commission on Communal Services Regulation by finalizing draft laws on energy performance contracts for submission to the Cabinet of Ministers. The draft laws, #3013 and #3014, were posted on the Ministry of Regions website for public discussion. The revised laws will stimulate the energy efficiency market and facilitate investments in the sector.
- **Risk Assessment Methodology.** In May, the final draft of the PPP Risk Assessment Resolution (draft CMU decree on amendments to CMU decree #232) was submitted to the MOEDT. The draft decree, authored by P3DP,

regulates the activities of municipalities or other public partners regarding PPP risk assessment and management. This will become part of the PPP Unit's operational procedures and make the evaluation process more clear for PPP project stakeholders. Comments obtained from stakeholders were incorporated into the final version. The draft decree will be submitted to the Cabinet of Ministers for final approval and adoption.

- **Tendering and Appraisal Procedures.** During Year 4, P3DP provided significant support on a proposed amendment to draft CMU decree on amendments to CMU decree #384 on tendering and appraisal procedures. If adopted, the amendment will strengthen the legal framework for PPPs by simplifying tendering and project appraisal procedures and resolving numerous legislative contradictions. The MOEDT approved the proposed amendment on July 25, 2014. In September, a key milestone was reached when the Ministries of impacted sectors approved the proposed amendments and submitted them to the Cabinet of Ministers for final approval. Full passage is expected in the first quarter of Year 5.
- **Simplified Evaluation and Approval Procedures.** P3DP authored amendments to draft law #4237a, the key document for changing the PPP framework, with input from MOEDT and other stakeholders during Year 4. These amendments, which amend laws #232 and #384, propose to eliminate regulatory barriers and simplify evaluation and approval procedures for PPPs. The Parliamentary Committee on

Industrial and Investment Policy, the primary committee tasked with investment legislation, approved the amendments and forwarded the legislation to other committees for review and subsequent submission to the Verkhovna Rada. Public discussion of the draft law took place at PIEC in July 2014; feedback from officials, experts, and the private sector was obtained. In September, the amendments were registered in the Plenary Agenda of Rada's 5th session. The draft law is expected to be considered for approval by the new Rada to be elected in October 2014.

- **Licensing.** P3DP continued work on CMU Decree #756 regarding licensing. Under the previous administration, efforts to facilitate the adoption of the draft had not been successful. Under the new minister, however, the MOEDT agreed to accelerate development of this important legislation. The draft decree was discussed in MOEDT internally and was finalized. During the upcoming quarter, the draft will be posted for public discussion and submitted to CMU for adoption.
- **PPP Appraisal Methodology.** P3DP provided input to Resolution #384, *Selected Issues of PPP Project Implementation*, which simplifies PPP financial appraisal procedures, public procurement policies, transparency measures, and project preparation.
- **Commercial law.** At the request of MOEDT, P3DP provided its expert review of Draft Law #3598 on PPPs on commercial law to the Commercial Law Center.

## Improving Concession Legislation

In June, P3DP participated in Ministry of Infrastructure Working Group on investment in transportation to discuss amendments to PPP laws enabling seaport concessions. P3DP provided analysis that highlighted key issues preventing the development of seaports. P3DP also participated in the Chamber's Seaport Working Group. P3DP will continue to participate in activities to develop legislation in this area.

At the request of MOEDT, P3DP provided recommendations and comments on draft law #3248, which addresses leases and concessions of state-owned fuel and energy enterprises. P3DP provided its expert view on the proper level of state authority and responsibilities and on the consistency of the law with other relevant legislation and procedures.

P3DP also provided recommendations to the draft decree on amendments to CMU Decree #639 on concession fee calculation methodology. The draft recommends an economically viable methodology for concession fee calculation. If passed, this will make the use of concessions more attractive to investors. In August, the MOEDT published the proposed amendments and recommended adoption of a more streamlined method for calculating concession fees. It is expected to be adopted in the first quarter of Year 5.

P3DP's activities have led to some clear successes with concession legislation. P3DP recommendations on draft law #0857 *On Amendments to the Laws on Leasing or Concessions of District Water, Heating Supply and Sanitation Communal Facilities* were adopted in October 2013, affecting

compulsory rules on tendering, sub-lease rights, regulation of lease payments, contract termination and fees. These amendments are expected to increase the attractiveness of concession contracts for the delivery of public services by the private sector.

## Collaboration with IFC on the Kyiv "Ring Road" PPP Project

During Year 4, P3DP participated in a working group that included the International Finance Corporation (IFC), the National Project Agency, and Ukravtodor, the state governing body of roads in Ukraine, to address issues that constrain not only this project but also other efforts to engage private sector finance and expertise to improve roads.

The GOA requested P3DP's support in identifying regulatory obstacles to the Kyiv Ring Road Project and to propose changes in legislation to address them. P3DP's knowledge and experience of the PPP process in Ukraine has been recognized by the GOA and IFC, the private sector arm of the World Bank Group.

P3DP's legal consultants completed the Legal Gap Analysis of Ukrainian motorway concession legislation in August and presented it to stakeholders at the PIEC for their review and input. Government officials and private sector stakeholders shared opinions and recommendations for legislative reform efforts in this important sector. Legislation that P3DP examined included the public procurement law, the road concession law, and the PPP law, among others. P3DP reviewed how legislation impacts the process for selecting a concessionaire, public spending, contracting issues, permits, land rights,

construction and other issues. Identifying barriers that discourage private participation was highlighted and alternative ways for their mitigation evaluated.

This work supports and complements a feasibility study underway by IFC for a road concession project to connect Kyiv's ring road to a major highway that will require building either a tunnel or a bridge crossing the Dnipro River. The project will improve the flow of commercial traffic around the city, which intersects with several major transportation corridors in Central and Eastern Europe.

P3DP's contributions provide valuable inputs to this important infrastructure project that can have a major economic and environmental impact in Ukraine. The identification and reform of legislative and regulatory barriers to this project will positively impact private participation through PPPs and other approaches in the transport and infrastructure sectors. These findings form the basis for further legislative drafts to be developed in Year 5.

## 1.2 Budget Code Amendments

P3DP's work on PPP pilots highlights how current legislation prevents municipalities from making long-term budget commitments. This barrier to long-term commitments negatively affects their entering into multi-year contracts, including PPP energy services contracts. This is a major obstacle to PPP development in Ukraine.

At the request of the National Commission, P3DP provided input to draft laws that will amend the budget code and energy efficiency legislation (based on #3013 and #3014) to help the GOU meet its energy

efficiency goals. Developed together with experts from the Commission, EBRD and IBSER, P3DP's proposed amendments will allow cities to enter into long-term budget commitments. This will make ESCO contracts and energy efficiency PPPs viable and more attractive to the private sector. This is crucial for stimulating PPP practices. P3DP's input on ESCO tendering and legal terminology was accepted by the Commission.

The draft laws presented to the public in May 2014 at a working group session organized by the Ministry of Regional Development, Construction and Housing. The drafts were also posted on the Ministry's website and submitted to the CMU, which in turn will send them on to the Verkhovna Rada. It is expected that this will happen in early Year 5.

## 1.3 Solid Waste Tariff Methodology

Existing tariff legislation has limited private sector investment in landfills in Ukraine. Furthermore, there is gap between tariff regulation in landfills and solid waste processing. Ukraine's solid waste management sector is in urgent need of financing and technical expertise. According to a recent World Bank study, less than four percent of the 13 million tons of solid waste generated annually is recycled. Of the country's 6,000 landfill sites, 3,500 are uncontrolled, posing health risks to the population and contributing to greenhouse gas emissions.

With appropriate incentives, the private sector could contribute significant funding and expertise. P3DP learned about this issue first-hand through a series of roundtables and discussions between the private sector and government on landfill

tariff calculation policy. These discussions, part of strategic communications efforts for its pilot PPPs in SWM in Vinnytsia and Ivano-Frankivsk, led to the development of a proposed methodology for calculating landfill tariffs that was submitted to the National Commission in December 2013. Upon adoption of the draft law, the draft methodology will be submitted to the Ministry of Regional Development, Construction and Housing (which is now responsible for solid waste management policy) to be processed before submission to the Cabinet of Ministers for final approval.

#### 1.4 Law on Solid Waste Management

Complementing its work on SWM tariff methodology, P3DP provided recommendations to the draft law on solid waste management. The draft law tariff setting authority to establish tariffs from the national government to municipal governments. P3DP's recommendations were well received. On April 29, the Ministry of Regional Development, Construction, Communal Services and Housing published the draft law on its website for public comment. Key provisions of the draft law include:

- Approval authority for landfill tariffs will be transferred from the National Communal Services Commission to municipal authorities;
- New SWM terminology will be more aligned with European Union practices;
- New penalties for breaching SWM regulations will be introduced to help municipalities manage SWM collection and landfill issues; and
- A mechanism will be introduced to enable citizens' participation in the

process to select and contract a provider of solid waste collection services.

Collectively, these amendments are will create greater opportunities for PPPs within the SWM sector. The draft law will be submitted to the Verkhovna Rada after the parliamentary elections in October.

In June, P3DP and the Ministry agreed on a number of action items regarding the development of the solid waste management sector to make it more effective and attractive to private sector participation. It was agreed that P3DP will:

- Advocate for adoption of the draft law on “green tariffs” in the SWM sector already submitted to the Verkhovna Rada;
- Upon adoption of the draft law, prepare sample contracts for the SWM sector and related municipal services; and
- Conduct two seminars for government officials to build capacity and awareness of SWM reform and identify other methods to attract greater private sector participation in the sector.

#### 1.5 Collaboration

P3DP is an active participant in working groups comprised of government bodies, NGOs, private sector organizations and other stakeholders, to strengthen the legislative and instructional framework for PPPs.

The effectiveness of these various groups differs considerably but as a whole they provide valuable information and data for analysis and have proven to be useful conduits for “creating ownership” and dissemination of recommendations.

During this reporting period, P3DP organized and/or participated in numerous conferences, round tables, workshops, trainings, and consultations to facilitate the development of PPP-related legislation and policy. A full list of policy meetings can be found in Annex 9.

## 1.6 Objective 1 Plans for Year 5

- **Legislative monitoring activity** will continue.
- **Infrastructure and Communal Services**
  - Advocate for the adoption of draft law #4237a On Amendments to Specific Laws of Ukraine (Regarding Elimination of Regulatory Barriers for PPP Development in Ukraine and Investment Promotion);
  - Work with amendments to the tax code to facilitate PPP implementation to eliminate mandatory requirements to any concessionaire to bear the tax debts of public entities;
  - P3DP will continue the support of draft law #301 based on #3013 and #3014, as well as other related draft laws regarding long-term budget commitments for ESCO contracts. P3DP will also hold discussions with the Ministry of Finance on the draft law on amendments to the Budget Code in order to enable implementation of long-term budget commitments for PPPs.
  - P3DP will work with secondary legislation affecting PPP and infrastructure development and required amendments including CMU decrees #279, which covers state support for PPP procedures; and

#81, which deals with the monitoring of PPP contracts; #756, which eliminates barriers in licensing; and #639, on concession fee calculations, and #384 and #232 on tendering and risks assessment.

- **Solid Waste Management**

- Draft law *On Amendments to some SWM Laws* adopted;
- Decree on Landfill Tariff Calculation Methodology adopted;
- Draft decree on amendments to SWM secondary legislation adopted.

- **Renewable, Alternative Energy and Energy Efficiency**

- Support the draft law *On Amendments to Some Laws of Ukraine on Alternative Sources of Energy*, which stimulates the development of energy produced from biogas and solid waste under the green tariff;
- Collaborate with the USAID supported MERP project in supporting efforts to adopt legislation needed for Energy Service Company contracts to be viable.

- **Motorway Concessions.** P3DP aims to stimulate private investment in this area through PPPs. P3DP will draft and support amendments to the law on motorway concessions, the concession contract, motorway concession tendering, and the methodology of the calculation of the concession and availability fees.



- **Industrial Park Development.** P3DP aims to stimulate industrial park development through the elimination of legislative barriers that dampen private investor interest or establish incentives for private sector participation. P3DP will identify and prioritize reforms, draft the necessary amendments, and advocate for their adoption.
- **Healthcare Services.** The GOU has drafted a concept paper on healthcare development that, upon official adoption, will guide P3DP and other stakeholder actions working to improve services. P3DP is following developments and is working with PIEC to identify key barriers for private

participation in this sector. P3DP will be an active participant in drafting and proposing legislation and advocating for needed reforms.

- **Working Group Participation.** P3DP will continue to participate in relevant GOU entity working groups, draft legislative and regulatory reforms, provide proposals on draft laws/sub-laws or amendments, and participate in meetings, conferences, and workshops organized by the various state entities.

For more information, please refer to the Year 5 workplan.

## Objective 2: Improving PPP Support Services of the MOEDT and Other GOU Agencies and Stakeholders

*Most municipalities and government agencies lack the experience and technical capacity to develop and manage PPP transactions, which prevents the government from engaging the private sector in addressing urgent infrastructure and public service needs. The PPP Unit was established in 2011 within the MOEDT to address these deficiencies and provide the support needed for PPP development. P3DP is helping the PPP Unit and other responsible government agencies improve the legislative environment and policies and deliver services that improve viability of proposed PPPs protect the public interest and environment, and support regions and municipalities in their efforts that protect the public interest and environment.*

A well-functioning, fair and transparent system for procuring goods and services from the private sector to provide infrastructure and public services will significantly ease budget pressures on government while drawing on the best available technical and managerial expertise. This, however, requires sufficient capacity within government to develop and implement such transactions through public-private partnerships.

The PPP Unit, housed within the MOEDT, is best positioned to serve this function within government. Its purpose is to:

- Facilitate the use of PPPs in Ukraine;
- Establish systems and processes to monitor the use of PPPs in Ukraine;
- Develop staff capacity necessary for its PPP work; and
- Create and implement a National PPP Strategy.

Since its establishment in 2011, the PPP Unit has become a functional body with a clear mandate. P3DP provided critical assistance in defining its role and responsibilities and in developing a national



**Ternopil Mayor Nadal at PIEC**

policy framework and approach to promote PPPs.

P3DP supports PPP Unit by enhancing its capacity to support municipalities and other agencies working to develop PPPs. P3DP is also working to create an effective dialogue between the PPP Unit and municipalities to increase awareness of community needs and the PPP Unit's services satisfying those needs. This will become progressively important as the current conflict abates in eastern Ukraine and municipal leaders begin to address the significant and immediate



needs in rehabilitating infrastructure and restoring public services.

Due to the Maidan protests and upheavals in government, P3DP delayed planned study tours, workshops and other training focused on the MOEDT PPP Unit staff and management. However, the Program continued to provide consultation and advice to them to ensure timely processing of submitted PPP proposals/feasibility studies, and using the opportunity for “hands-on” learning experience.

P3DP accelerated support activities with the MOEDT upon the establishment of the interim government in March 2014. This work included improving the legal framework by modifying existing PPP procedures, advancing PPP knowledge and skills of government staff, and supporting the MOEDT’s communications efforts through websites, publications, and the media.

If and when peace returns to Eastern Ukraine, reconstruction of infrastructure and the restoration of public services will become critical for restoring stability to the region. Private sector financing and resources will be necessary if government is to accomplish this in an environment of limited budgets and a poor economy. The role of the MOEDT, both in guiding PPP development and in serving as a resource to regional and municipal governments seeking PPPs, will grow more important.

P3DP also works with other relevant institutions such as the Ministry of Regional Development, Construction and Communal Services of Ukraine and the National Commission on Communal Services Regulation of Ukraine to provide relevant advisory support on their legislative and

regulatory activities related to creation of a PPP-enabling environment.

## **2.1 Create PPP Standards, Guidance Tools, and Procedures**

### **PPP Resolutions Revisited**

The functionality of PPP procedures has been verified by the passage of three PPP projects through the PPP Unit: the Malyn Biofuel project, the Vinnytsia Landfill Gas Recovery project, and the Simferopol Urban Park Renewal PPP (since suspended).

During Year 4, P3DP and the MOEDT’s PPP Unit worked to further simplify the PPP procedures and contribute to anti-corruption efforts. P3DP assessed the legal and procedural details of draft resolutions #384, #232, and #756, which affect the PPP tendering and appraisal methodologies, risk assessment, and licensing regulations. Proposed amendments to these decrees were developed by P3DP and submitted to MOEDT in Y4Q1. P3DP worked closely with and counseled the MOEDT team in finalizing the draft resolutions.

Resolution #384, which amends the procedure for tendering and efficiency analysis, was approved by line ministries and is expected to be approved by the Cabinet of Ministers in the first quarter of Year 5. P3DP is monitoring progress of these and other draft resolutions.

## **2.2 Enhancing MOEDT and other agencies’ PPP Knowledge and Skills**

P3DP’s uses a variety of tools for developing PPP capacity of key GOU staff. These include practical workshops to learn essential knowledge and skills, study tours to learn first-hand from experiences of

international colleagues, and tailored consultancies to apply acquired knowledge to PPP project evaluation and approval.

In Year 4, P3DP conducted two study tours to Poland and Turkey to study best practices in PPP policies, operations and management of those countries.

**Poland.** In December, P3DP conducted a study tour for four officials from the MOEDT and the National Projects Agency. Through workshops, seminars, discussions, case studies and site visits, the officials learned valuable information drawing from Polish knowledge and experience. The topics were:

- Structure of PPP and concession contracts and their features;
- Identifying and building relations with key PPP stakeholders within both public and private sectors;
- Available policies, mechanisms and tools to support PPP projects;
- PPP legal framework;
- Financing and bankability of PPP projects including facilitating EU Funds;
- Implementation of PPP projects at different stages: preparation, tender, and operations;
- The role of consultants in preparing and implementing PPP projects.

The full report of the study tour to Poland can be found in Annex 6.

**Turkey.** Fifteen Ukrainian officials participated in a five-day study tour to Turkey to learn about that country's experiences with PPPs. Participants included Roman Kachur, Deputy Minister of the MOEDT who is responsible for PPP policy at the ministerial level; the PPP Unit's Pavlo

Pakholko, Deputy Head of the MOEDT's Department of Investments, Innovations and PPPs, two representatives from the National Projects Agency, and multiple municipal representatives from the south and eastern parts of Ukraine .

*P3DP is helping the PPP Unit and other responsible government agencies improve the legislative environment and policies and deliver services that improve viability of proposed PPPs protect the public interest and environment, and support regions and municipalities in their efforts that protect the public interest and environment.*

Participants met agencies tasked with attracting investment and developing partnerships to improve infrastructure and public services. Private businesses hosted site visits of industrial and techno-parks, solid waste facilities, transport infrastructure, and economic development projects developed through PPPs. Following the elections in late October, P3DP will organize a follow-up meeting with the participants in Kyiv to share experiences of applying learned strategies and PPP approaches.

The full report of the study tour to Turkey can be found in Annex 7.

In addition to study tours, P3DP continued to provide assistance needed to improve PPP development and evaluation methodologies and standard documentation. P3DP also developed two PPP Guidance Notes on unsolicited bids and fiscal controls (see Annexes 4 & 5) and is developing several more for release in the coming year. P3DP is also preparing a PPP Unit Operational Action Plan to help it better structure its functions, responsibilities, and procedures. This work will be completed during the first quarter of Year 5 in collaboration with the PPP Unit's recently assigned head. Other important tools such as tender documentation guides, contract models, standard feasibility study reports, and financial modeling tools were also developed by the Program to support the PPP Unit's operations.

### **2.3 Developing Communication and Cooperation between GOU and the Private Sector – PPP & Infrastructure Expert Center**

To be more effective in developing PPPs that improve infrastructure and public services, the GOU must establish an effective dialogue with the business community. To this end, P3DP and the American Chamber of Commerce in Ukraine launched the PPP & Infrastructure Expert Center (PIEC) in May 2014. A Memorandum of Understanding was signed between P3DP, the Chamber, MOEDT and the Ministry of Regional Development, Construction, Housing and Communal Services outline cooperation and demonstrate commitment in this effort.

PIEC serves as a platform for advocating for policy and regulatory reforms needed to improve the PPP environment and

#### **About the PPP & Infrastructure Expert Center**

The Public-Private Partnership and Infrastructure Expert Center teams P3DP with the American Chamber of Commerce in Ukraine and its membership of over 600 international and local companies to advocate for needed legal, regulatory and policy reforms in key sectors. PIEC will also facilitate investment into PPPs addressing infrastructure rehabilitation and restoration of public services as the current conflicts in eastern Ukraine subsides.

facilitating collaboration between the GOU, businesses, donors and NGOs in developing PPPs and infrastructure. Coordination between P3DP, the Chamber, and the GOU will enhance reform efforts while also building a foundation to sustain the work.

The first PIEC working meeting was held on May 23, 2014 to unite key stakeholders in creating an action plan for improving the enabling environment for infrastructure and PPPs. PIEC also facilitates communication between the public and private sectors and facilitates completion of specific PPP agreements. In June, the Center hosted a discussion about opportunities for the private sector to participate in infrastructure and public service projects in Ternopil. Its mayor, Mr Nadal, and representatives of the city council highlighted priority sectors and detailed specific opportunities.

In July, PIEC hosted a public discussion on the recently registered draft law on amendments to the Law on PPPs. PIEC also agreed to work with the Dnepropetrovsk Regional Council on highlighting business

opportunities in the region with an emphasis on SME development, agribusiness, solid waste management and green energy and environmental protection.

P3DP also presented the study on highway concession legislation through the PIEC as part of its support to the National Projects Agency (NPA) before it was dissolved. Government officials and private sector stakeholders shared opinions and recommendations for legislative reform efforts in this important sector. The legislative review for the Kyiv Ring Road project was part of a feasibility study conducted in partnership with the International Finance Corporation.

PIEC has already established itself as a valuable tool for discussion and facilitating dialogue between the private sector and government. P3DP will continue working closely with the Chamber and its membership throughout Year 5. P3DP has already received numerous requests from public authorities to organize events on PPP and investments in Ukraine within various sectors of economy. P3DP will be presenting successful PPP pilots through the PIEC. Municipalities interested in attracting investment into their communities will be assisted in preparing viable PPP proposals based on replication of the pilots that create business opportunities in energy, healthcare, solid waste management and transport.

## 2.5. Industrial Parks

The development of industrial parks is a priority for the reformist Ukrainian government as a means for attracting foreign investment, creating jobs, and sparking economic development, especially in the southern and eastern regions of the

country. P3DP is participating in a working group organized by the U.S. Ukraine Business Council (USUBC) to keep abreast of developments and make contributions to public discussion.

Although insufficient time remains in the program to see industrial park PPPs fully implemented, P3DP is well-positioned to contribute to their development by improving the legislative environment, working to introduce investment incentives, and assist municipalities to create viable strategies that facilitate attracting investment and developing the parks.

### Industrial Park in Sverdlovsk

An industrial park is being planned for Sverdlovsk, a city in the Luhansk Region currently occupied by separatist forces near the border with Russia. A technical pre-feasibility study had been conducted by DTEK, an energy firm.

During Year 4, P3DP participated in the working group comprised of the Luhansk Regional Development Agency, DTEK, and national government agencies. Once hostilities in the area are over, the next step will be to prepare a full feasibility study. Ernst and Young was selected to develop the PPP concept. P3DP's contribution is limited to providing technical input. Once hostilities cease, all stakeholders will be positioned to act quickly to develop the project further.

This project has the potential to attract investment and create jobs in a crucial region of Ukraine. Once hostilities are over, it will be important for government and donors to provide support to spur economic development in the region. Greater economic opportunities will help

cement the region to the rest of the country.

### Kyiv Business Harbor

The Kyiv Investment Consortium, a private sector association, is planning to develop and operate an industrial park at Kyiv harbor on land provided by the city administration. P3DP signed an MOU with the Kyiv City Administration (KCSA) to contribute to the development of the PPP.

This project is expected to create jobs, support economic development, and protect the environment.

## 2.5 Objectives for Year 5

To support Objective 2 activities in Year 5, P3DP will:

- Provide counselling, advice, and recommendations to MOEDT and other agencies through participation in working groups;
- Guide development of the PIEC to prepare it for a long-term role in facilitating public-private dialogue and advocacy;
- Develop materials and case studies based on the international study tour and ongoing consultations;
- Support development and adoption of a PPP Unit Institutional Development and Action Plan and implementation of the National PPP Development Concept for 2013-2018;
- Provide ongoing support in processing PPP projects and adapting the PPP Appraisal Methodology;
- Prepare a series of guidance notes on important areas such as agribusiness PPPs, PPPs in Post-Conflict Countries, and other topics;
- Organize discussions on PPP experience of municipalities, presenting amendments to the PPP law; and legal issues on road concessions and PPPs.
- Follow-up with industrial park development through participation in working groups.

## Objective 3: Developing Public Awareness and Municipal Capacity

*The concept of PPPs is relatively new as a tool to improve infrastructure and the quality of public services in Ukraine. However, interest in PPPs by municipal, regional and national governments is growing, in the face of growing budget constraints and the need to rebuild infrastructure, restore health, education and other public services, and improve the business environment. The need for PPPs is especially important in a post-conflict context. P3DP builds the capacity of government and municipal leaders to better understand how to design and manage PPPs to meet these objectives. P3DP emphasizes the value and importance of transparency in the decision making processes, the importance of consulting key stakeholders throughout the PPP development cycle, and the need to address environmental issues involved in PPP projects.*

In Year 4, Objective 3 activities focused on providing a foundation for officials in pilot cities to successfully implement PPP transactions. Strategic communications was also emphasized to help key stakeholders, including the business community, NGOs, the media and the public to better understand the impact of PPPs and provide input during the implementation process.

P3DP's training and stakeholder communication activities highlight the important environmental considerations of PPP projects. Municipal leaders and other decision makers need the tools to determine whether the environmental or social impact from a PPP project outweighs its potential benefits and how any detrimental impacts can be mitigated.

Interest in PPPs by municipal representatives has increased steadily during the first four years of the program in spite of the significant changes that took place in Ukraine during Year 4. The turmoil, however, delayed implementation of some activities planned for this period. Nevertheless, a number of important



**P3DP trainer Ned White with municipal leaders**

capacity building events took place during Year 4. Assuming successful parliamentary elections in October 2014 and an enduring ceasefire in eastern Ukraine, P3DP anticipates an acceleration of its Objective 3 activities during Year 5.

### 3.1. Develop Capacity of Pilot Municipalities to Implement PPP Projects

P3DP delayed several PPP capacity development activities due to political



events and unrest in Ukraine, but were able to implement them successfully in Y4Q4.

Four workshops on PPP financial analysis and modeling were conducted in August. A total of 46 managers and support staff of the Ministry of Economic Development of Trade, the PPP Unit, Kyiv and Lviv City Administration officials and representatives of line ministries and agencies<sup>1</sup> gained knowledge and skills needed to prepare and analyze PPP proposals by successfully completing a five-day Financial Analysis and Modeling Workshop.

*P3DP emphasizes the value and importance of transparency in the decision making processes, the importance of consulting key stakeholders throughout the PPP development cycle, and the need to address environmental issues involved in PPP projects.*

Four PPP project management workshops scheduled for May were postponed until September because of travel restrictions for international trainers. P3DP conducted these practical workshops in Vinnytsia, Lviv, Zaporizhia and Kyiv to develop the capacity

<sup>1</sup> These included the Ministry of Regional Development, Construction, Housing and Communal Services; the Ministry of Infrastructure, the Ministry of Health, the Ministry of Finance, the State Agency for Investment and National Projects, and the National Commission on the Deregulation of Tariffs for Communal Services.

of 86 municipal government officials and other stakeholders to effectively create and manage PPP projects. The one-day training

used case studies in healthcare, waste management, energy efficiency and other sectors to highlight management and monitoring issues related to implementation of all aspects of the PPP agreement, as well as the management of stakeholder relations.

During Year 4, P3DP continued preparation of a “training-of-trainers” workshop to share its accumulated experience in PPP development over the last four years with leading instructors of higher education and other organizations that currently or envisage providing PPP courses. Materials will be made available through a website and other sources to a broad spectrum of stakeholders. These include five case studies based on P3DP pilot experience, updated PPP guidelines, and teaching notes.

Following consultations with its beneficiary, the National Agency for Investments and National Projects Management, as well as PPP leading departments within the National Academy of Public Administration, P3DP began developing a PPP e-learning course. The course will incorporate the most up-to-date materials on PPP development in Ukraine and be made available online.

### **3.2. Conferences, Seminars and Roundtables**

In the last quarter of Year 4, P3DP began preparation of a waste management PPP seminar jointly with the Ministry of Regional Development, Construction and Communal Services and the EU TAIEX project. It is currently scheduled for November 2014. The seminar will bring together over 150

local government representatives and key private operators from the waste management sector to discuss recent policy changes impacting private sector participation in the sector, many of which were developed with contributions from P3DP.

In addition to increasing incentives and reducing barriers for private investment, an overarching theme will be on solving Ukraine's solid-waste problems. The social, economic, and environmental gains should be an integral part of any SWM development strategy to achieve the triple bottom line for business and society, i.e., profits, quality service, and protection of the environment.

### 3.3. Stakeholder Communications

Strategic stakeholder communication programs ensure that concerns of the general public and key stakeholders are addressed throughout the PPP development process. Additionally, they promote awareness of the benefits of specific PPPs to build project support. Activities include discussions with potential investors, opinion surveys, and public outreach such as hearings and media events.

On Ukraine's Independence Day, August 24, P3DP contributed to USAID's Field Days in Lviv. The team distributed information on PPPs and conducted a survey on the use of public transportation, alternative transport such as biking, walking or carpooling, as well as parking issues for use in future stakeholder communications efforts related to the Lviv Parking PPP Project.

Due to unrest and the security situation in many host cities of the projects during anti-

government protests, P3DP could not implement all planned strategic communications activities supporting PPP pilots during Year 4. P3DP also postponed a media study tour to Vinnytsia until the tender for the landfill gas PPP is announced by the City Council. The tour will illustrate the principles and benefits of PPPs by demonstrating lessons learned and best practices of one of P3DP's PPP projects – the Vinnytsia SWM Landfill Re-cultivation and Biogas Utilization pilot. The media study tour is expected to take place in the first or second quarter of Year 5.

### 3.4. Partnerships with Educational Institutions

P3DP's experiences with pilot PPP projects provide valuable lessons that can be shared through case studies and teaching materials. In April, P3DP met with Alexander Savruk, the Dean of the Kyiv Mohyla Business School (KMBS) to discuss efforts to establish tailored PPP training programs needed by municipalities and the private sector. It was agreed that materials from the PPP pilots will be integrated into KMBS's courses. P3DP is developing materials and a "train-the-trainer" course for faculty members. The course will be delivered in November with follow-on support provided through April 2015 for 20 professional teachers and trainers from 11 institutions of higher learning and postgraduate education. Among them are the National Academy of Public Administration in Kyiv and its regional branches in Kharkiv, Odessa, Lviv and Dnipropetrovsk; the Main State Service, and Economic Universities from Odessa, Kharkiv and Kyiv.

Also looking ahead toward sustainability of capacity building efforts, P3DP is in



discussion with the Kyiv and Odessa branches of the National Academy of Public Administration. P3DP training materials and case studies will be shared for inclusion in PPP modules as part of post-graduate programs for public officials.

### 3.5 Objectives for Year 5

During Year 5, P3DP will conduct numerous events to share the sum of its experiences in PPP development and delivery in Ukraine. Emphasis will be placed on capturing and disseminating knowledge and lessons learned so that PPP development continues long after the program period.

- PPP stakeholder communications workshops and consultations in Vinnytsia, Kyiv, Zaporizhia, Lviv, and Ivano-Frankivsk;
- PPP media training in Vinnytsia, Kyiv, Zaporizhia, Lviv and Ivano-Frankivsk;
- Development and launch of a PPP e-learning course;
- Train-the-trainer course with follow-on seminar and ongoing support;
- National solid-waste management seminar;
- XIV International Economic Forum in Lviv;
- Third PPP Awareness, Attitudes and Needs Survey;
- Five 10-15 minute videos based on the experience of developing the pilot projects, highlighting the challenges, opportunities and potential benefits of PPPs;
- P3DP results and “Roadmapping the Future” Conference.

## Objective 4: Pilot PPP Projects

*P3DP made progress in moving many of the pilot PPP projects toward tendering in spite of the political and military crises that gripped the country during Year 4. The Malyn Municipal Heating with Alternative Fuel project was successfully tendered, awarded, and contracted. Other pilots, particularly in the solid waste management sector, were further developed. However, some pilots were adversely impacted by events, most notably the park and recreation PPP in Simferopol, which was suspended after the Russian occupation of Crimea. In recognition of the new challenges to attract private investment, the number of PPP pilots targeted for tendering was reduced from 10 to 5. Accordingly, the amount of P3DP resources allocated to Objective 4 was lowered from 50 percent to 20 percent.*

P3DP's pilot projects fulfill a critical function in the development of PPPs in Ukraine. First, they test the PPP process and legislative framework, which helps identify areas for further improvements. Second, they provide municipal, regional and national officials with experience in development and implementing PPPs. Third, they lead to concrete infrastructure and public service improvements that are replicable and which directly benefit the public. Finally, they contribute to the increasingly vital dialogue between the public and private sectors that will be critical for rebuilding the country in the post-conflict period.

These objectives were met in spite of the political upheaval during the Maidan revolution and the subsequent conflict with the Russian Federation. Although some pilots, most notably the Gagarin Park pilot PPP in Crimea, were adversely affected, the majority of pilots moved forward, providing valuable lessons of experience. P3DP facilitated the tender and award of two projects and made significant progress in projects in the solid waste management, health, education and urban transportation sectors.



Vinnitsia representatives share their experiences with officials from the Ivano-Frankivsk delegation

The pilots are expected to deliver important benefits to Ukrainian citizens, such as power and heat from renewable sources, increased energy efficiency, improved healthcare, reduced traffic congestion, cleaner environment, and better managed educational and recreational facilities. The pilots followed a PPP process developed under existing legislation with P3DP support. Pilot PPP projects were selected according to specific criteria, including:

- A clear public need;
- Commitment by the local government for implementing a transparent PPP transaction;

- Positive impact on climate change;
- High impact and potential for replicability in other Ukrainian municipalities;
- Potential to stimulate positive dialogue between the public and private sectors.

A well-designed PPP transaction involves numerous steps. These ensure that sufficient information is available to key stakeholders, including potential private sector partners, officials, civil society, and the general public. A thorough review process that includes legislative analysis, financial assessment, market sounding, and stakeholder communications helps allocate risks efficiently.

Due to the crisis in Ukraine, and in recognition of even greater challenges to attract private investment to partner with municipalities or the GOU, the goal of tendering 10 pilot PPPs was adjusted to 5. Accordingly, the amount of P3DP resources being allocated to Objective 4 was reduced from 50 to 20 percent. This is reflected in a Modification to the Cooperative Agreement.

## Sectoral Briefs

Sectoral briefs will be created that draw lessons from both successes and failures in PPP implementation in Ukraine. Planned briefs will cover the following sectors:

- Solid waste management, including biogas and landfills
- Parks and recreation facilities
- Alternative fuel heating
- Healthcare
- Parking

The briefs will be widely disseminated through the P3DP website, the PPP Unit, PIEC, and regional meetings and seminars.

## Status of Pilot PPP Projects

The following table provides a summary of each pilot PPP, by sector, as of September 30, 2014:

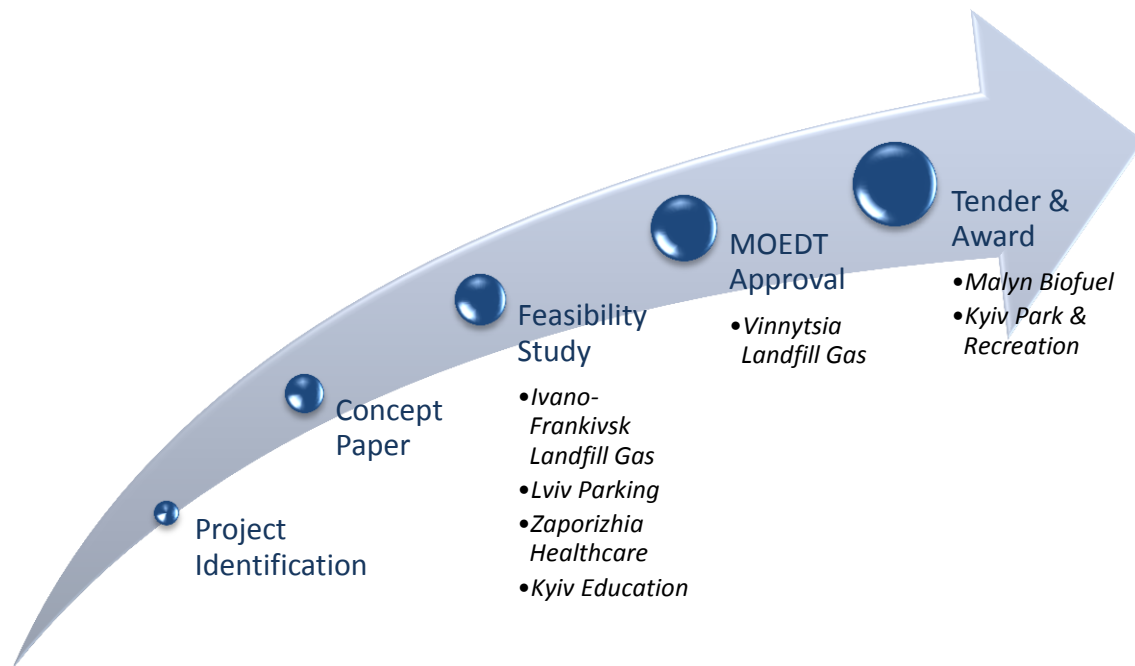
|                                  | PROJECT DESCRIPTION   | STATUS AND PLANS   |
|----------------------------------|---|--|
| RENEWABLES & ALTERNATIVE HEATING | <p><b>Malyn Municipal Heating with Alternative Fuel:</b></p> <p>Enables three municipal buildings, mainly schools, to be heated using straw pellets, an alternative fuel source abundant in Ukraine. Expected to reduce heating costs by 10%. Four jobs expected to be created. \$270,000 in investments expected.</p> <p>Project highly relevant due to the gas cutoff by the Russian Federation.</p> <p>PPP Type: Build-Operate-Transfer (BOT).</p>           | <ul style="list-style-type: none"> <li>• MOU with city signed;</li> <li>• Completed legal assessment and feasibility study; assisted in financial modeling;</li> <li>• Full PPP package approved by the City Executive Committee;</li> <li>• City Council approval obtained in September 2013;</li> <li>• MOEDT approval finalized by end 2013;</li> <li>• City Council took decision to start preparation of PPP tender, drafted tender documents, formed PPP committee and collected bids;</li> <li>• City Council reviewed the bid and chose the winning private partner. Results were formalized by City Council's decision dated April 25<sup>th</sup>, 2014, which authorized the Mayor to conclude the PPP contract with the winner;</li> <li>• Draft PPP contract has been negotiated, provisions agreed and sent to PPP Unit for registration;</li> <li>• Contract with Energiya Tepla, a private Ukrainian firm, signed and approved by MOEDT in September 2014. Equipment installation is anticipated to be completed within 2-3 months.</li> </ul> |
| SOLID WASTE MANAGEMENT           | <p><b>Ivano-Frankivsk SW Landfill Management and Gas Treatment:</b></p> <p>P3DP-supported tests indicate that there are sufficient gas emissions at a municipal landfill to generate electricity. Under a PPP, a private partner will build and operate a power generating facility and connect it to the regional electricity grid. Investment expected is up to \$3 million, with 6 new jobs created.</p> <p>PPP Type: Build-Own-Operate-Transfer (BOOT).</p> | <ul style="list-style-type: none"> <li>• Concept paper developed and presented to city;</li> <li>• Governor and Mayor collaborating to allocate funds in the Regional Environmental Fund for development of technical and construction documents;</li> <li>• City Executive Committee on April 20th, 2014, formally launched PPP preparation;</li> <li>• P3DP collected bids for feasibility study, technical consultancy, financial modeling and legal support;</li> <li>• Technical consultants completed a draft feasibility study in September 2014, including financial and legal issues. The study was submitted to the City Council for review and further actions.</li> </ul>  |
|                                  | <p><b>Vinnitsia SW Landfill Management, Gas Treatment and Electricity Project:</b></p> <p>The proposed project will generate power from landfill gas at a municipal landfill. The</p>   | <ul style="list-style-type: none"> <li>• Legal assessment, financial model, environmental assessment completed;</li> <li>• Feasibility study completed and approved by the municipality;</li> <li>• Full PPP package was submitted to the PPP</li> </ul>   |

|                    | PROJECT DESCRIPTION   | STATUS AND PLANS   |
|--------------------|---|--|
|                    | <p>energy will reduce the need for power from more polluting sources, reducing carbon emissions. Expected reduction of CO2 emissions of 20,000 tons, with six new jobs expected. UAH 60 million in tax revenue expected during life of project.</p> <p>PPP Type: Build-Own-Operate-Transfer (BOOT).</p>                     | <p>Unit and the Ministry of Finance and approved by both;</p> <ul style="list-style-type: none"> <li>• Draft tender documents were prepared by P3DP and submitted to the municipality for review. The municipal working group amended the tender package and is currently working to prepare official tender decisions by City Council.</li> <li>• Tender, contract signing and installation expected in Year 5.</li> </ul>  |
| PARKS & RECREATION | <p><b>Kyiv Summer Sports and Recreation Facility:</b></p> <p>Establishes a sports and recreation zone on Dolobetsky Island in the Dnipro River in Kyiv. Investments of up to \$4.5 million expected, with 15 new jobs created.</p> <p>PPP Type: Build-Own-Operate (BOO).</p>  | <ul style="list-style-type: none"> <li>• P3DP provided input for developing tender documents and the PPP contract;</li> <li>• Supported public outreach campaign;</li> <li>• Project taken to tender in June 2013;</li> <li>• Tender issued and awarded in July 2013;</li> <li>• PPP master contract signed between KCSA and Kyiv-based Private operator Misto Sportu Ltd. in 2014 after some property lease and land tax issues were clarified;</li> <li>• Operator conducted installation of facilities (temporary football stadiums, basketball fields, administrative office, premises for football academy, kiosks for beverages);</li> <li>• Improvement of green area started.</li> <li>• P3DP will monitor results throughout remainder of program period;</li> <li>• 5 jobs were created; further jobs expected at the later stages of operations.</li> </ul> |
| EDUCATION          | <p><b>Kyiv Maintenance of Educational Facilities PPP:</b></p> <p>The project envisages a private operator providing all utility, maintenance and adjacent services to 73 education facilities in Podil district through 5-10Y PPP contract. Around 10 new jobs could be created.</p> <p>PPP Type: Management agreement.</p> | <ul style="list-style-type: none"> <li>• Initial business model drafted;</li> <li>• Financial model being updated;</li> <li>• Legal report on internal KCSA project development procedure, public procurement issues and general legal structure of the PPP finalized in March 2014;</li> <li>• Several working meetings held to define project structure; recommendations officially submitted to KCSA.</li> </ul>  |

|                      | PROJECT DESCRIPTION   | STATUS AND PLANS  |
|----------------------|---|---|
| URBAN TRANSPORTATION | <p><b>Lviv Parking Management:</b></p> <p>This PPP will reduce traffic congestion and pollution in the city center by building underground parking facilities. 11 - 25 million in investment expected, with 10 new jobs created.</p> <p>PPP Type: Design-Build-Finance-Operate (DBFO).</p>  | <ul style="list-style-type: none"> <li>• MOU signed with City in 2011;</li> <li>• Concept paper completed;</li> <li>• Financial model completed, detailing six financial scenarios;</li> <li>• P3DP's engineer consultants completed costs &amp; design report and provided tentative design of off-street facilities;</li> <li>• City will assess bidders interest in autumn 2014 using P3DP's materials;</li> <li>• P3DP will limit future assistance to stakeholder communications and preliminary environmental assessment;</li> <li>• City targets tendering in 2015.</li> </ul>   |
| HEALTHCARE           | <p><b>Zaporizhia Healthcare:</b></p> <p>First healthcare PPP in Ukraine, opening the door for greater private sector participation in the public healthcare system. PPP expected to make facility improvements and deliver higher quality medical services to the public at competitive costs. Up to \$2 million in investments expected, with 50 new jobs created.</p> <p>PPP Type: : Lease-Renovate-Operate-Transfer (LROT)</p> | <ul style="list-style-type: none"> <li>• MOU signed with municipality;</li> <li>• Legal structure and business model completed;</li> <li>• Additional medical services to be provided by private operator identified and investment obligations finalized;</li> <li>• Feasibility study completed and financial model drafted;</li> <li>• PPP Appraisal Opinion and PPP package completed and provided to Municipality in late 2013;</li> <li>• City Executive Committee approval was suspended due to local political crisis in early 2014;</li> <li>• P3DP presented project accomplishments and PPP structure to Deputy Governors to seek support from newly-appointed regional officials;</li> <li>• City Executive Committee evaluating feasibility study. Upon approval it will be submitted to the MOEDT PPP Unit for review.</li> </ul> |

## Pilot PPP Project Details

Despite the challenges resulting from political upheaval and war in Ukraine, the Pilot PPP projects have progressed towards tender and award throughout Year 4.



## RENEWABLES & ALTERNATIVE HEATING

Renewable energy holds promise in Ukraine for reducing the country's dependence on Russian natural gas. The armed conflict with Russian-backed separatists and disputes over gas prices has made Ukraine highly vulnerable to an energy cutoff. This in turn has increased interest in energy efficiency and alternative fuels.

Ukraine has significant potential to reduce heating and electricity usage by implementing efficiency programs. Expanding use of alternative and renewable energy also holds great promise; particularly because Ukraine's rich agricultural and forestry sectors produce large amounts of bio waste.

Public-private partnerships can help Ukraine reduce energy dependence on other countries. By partnering with the private sector, local governments can access financing and technology to generate heat and power from renewable fuel sources. In addition to increasing energy independence, this approach cuts both costs and greenhouse gas emissions.

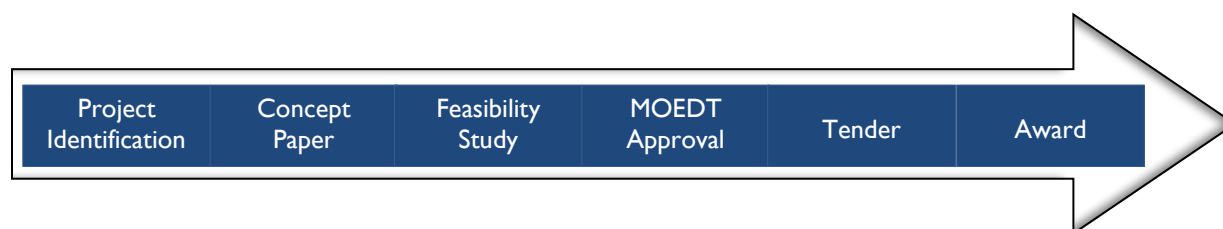
P3DP's programming activities address energy efficiency and climate change and support USAID's Global Climate Change and Development Strategy. In addition to supporting legislative changes to reduce emissions, P3DP is working on a renewable energy project in Malyn, which was successfully tendered during the first quarter of 2014.

P3DP is also supporting the Myrhorod Biofuel Municipal Heating project, being implemented by MDI/MADEM. The project will introduce use of alternative biofuels through a PPP for municipal heating in Myrhorod, a city of about 40,000 in the Poltava Region. Lessons learned from P3DP's Malyn project are expected to be beneficial to the Myrhorod effort.

*The Malyn biofuel project is the first in Ukraine to convert a natural gas boiler to an alternative fuel one using the PPP model. If successful, the project will serve as a model for other Ukrainian cities for increasing energy independence using renewable fuel.*



## 4.1. Malyn Municipal Heating with Renewable Energy



### BACKGROUND

In Malyn, a town of 27,000 in Zhytomyr Region, city officials looked into converting heating systems of public buildings to use wood or straw pellets as an alternative, renewable biofuel. This was motivated in part by the risks of a gas cutoff and unpredictable gas prices.

Straw is an agricultural by-product abundant in Ukraine. When compressed into pellets, it burns at a high temperature suitable for heating buildings. Furthermore, it does not contribute to greenhouse gas emissions, as the carbon released by burning equals the carbon absorbed by crops during the growing season. However, numerous technical and legal issues had hindered Malyn from moving forward on a biofuel heating project. City leaders turned to P3DP for support needed to overcome barriers and identify and engage a private partner through a PPP.

P3DP assisted the municipality in preparing the PPP feasibility study, the financial model, technical and legal reviews, and environmental impact assessment.

### ACTIVITY DURING THE REPORTING PERIOD

This pilot PPP was tendered, signed and approved during the reporting period, making it the first PPP to be executed fully within the provisions of Ukraine's 2010 PPP Law.

The project was evaluated and approved by both the MOEDT's PPP Unit and the Malyn City Executive Committee. In February 2014, the City Council of Malyn announced the PPP tender. Although only one bid was submitted, a thorough review indicated that it was technically feasible, conformed to legislative requirements, and would bring value to the community.

The bid went through a final technical and financial review by the tender committee with P3DP support. In April 2014, the Malyn City Council formally approved the Tender Commission's selection of a private partner, thereby authorizing the mayor to conclude a contract with the winning bidder, Energiya Tepla, a private Ukrainian operator. This makes the Malyn project the first project in Ukraine to convert a natural gas boiler to an alternative fuel one using the PPP model. If operations prove to be successful, the project will serve as a model for other Ukrainian cities for increasing energy independence using renewable fuel.

The PPP agreement was approved by the MOEDT on September 2, and signed on September 19. P3DP submitted the Environmental Review Checklist to USAID for its review, addressing comments and recommendations of the Mission's Environmental Officer. Installation of equipment is expected by early November, in time for the 2014-15 heating season.

Municipalities, businesses, and regional governments have expressed strong interest in using the pilot as a model that can be replicated elsewhere in the country. P3DP will continue to monitor progress of the project and share information about the model during Year 5 at sectoral seminars in regions.

## RISKS AND MITIGATION

Technical and political risks have largely been mitigated. The key remaining risk is that budget constraints could lead to the inability of the municipality to pay the private sector partner in a consistent and timely manner. To mitigate this risk, P3DP reviewed local budgets and determined that the city has the resources to pay for long-term service and provide advice and support to the project.

## EXPECTED PROJECT RESULTS

P3DP's studies show that using straw pellets as a substitute for natural gas is economically feasible and does not present health risks to the public. Furthermore, improved heating efficiency will enable Malyn to increase temperatures at its schools, which can reduce student absenteeism due to illness. Other expected benefits include:

- The Project successfully tested Ukraine's PPP procedure, implemented with P3DP support;
- Municipal energy costs of heating impacted buildings should fall by at least 10 percent;
- Over 1,600 students and teachers will benefit from warmer and more reliable heating;
- Carbon emissions will be reduced by over 11,000 tons over the life of the project;
- The feasibility of using straw pellets as a carbon-neutral renewable fuel source will be demonstrated in Ukraine;
- Attraction of nearly \$300,000 in new investments and creation of four new jobs; and
- Ukraine's energy independence will be strengthened by demonstrating a highly replicable model.

## SOLID WASTE MANAGEMENT

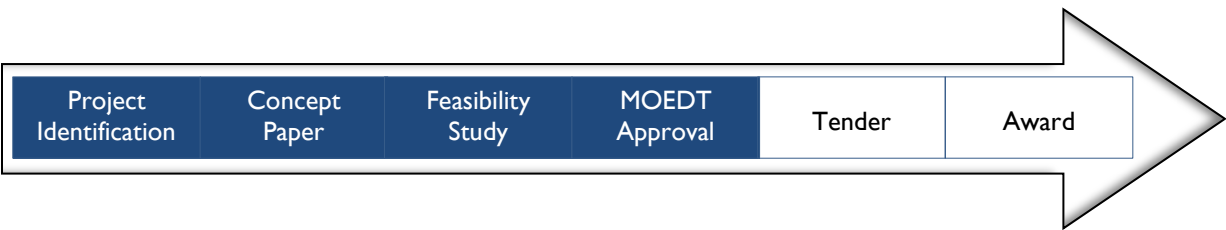
The Government of Ukraine aims to reform its highly-inefficient solid waste management sector. By involving the private sector through PPPs, government can reduce costs, increase recycling, introduce new technologies, improve management, and protect public health and the environment.

P3DP has collaborated with the National Commission for Communal Services Regulation and the Ministry of Regional Development, Housing and Communal Services to establish a rational,

clear, and consistent SWM tariff methodology for the disposal of waste at municipal landfills, an essential factor for successful public-private partnerships in the sector.

A promising component of a comprehensive SWM strategy is generating power by harnessing harmful methane gas produced by landfills. This approach enhances not only produces energy, but reduces negative environmental impact and contributes to long-term maintenance and post-closure activities on the landfill. P3DP is working with municipal governments in both Vinnytsia and Ivano-Frankisk to develop PPPs that harness biogas emissions as part of their comprehensive SWM systems.

4.3. Vinnitsa SWM and Landfill Gas Utilization Project



BACKGROUND

Vinnytsia, a city of 370,000 located 260 km west of Kyiv, plans to generate electricity using landfill gas at an existing municipal landfill through a PPP. Earnings from the produced electricity will be used to re-cultivate and close down the landfill once its capacity expires and provide resources for post-closure care. This is important for addressing long-term environmental safety at closed landfills. In addition, the city will reduce its carbon emissions and need for power from more polluting sources.

The project will require installation of new equipment at the existing municipal landfill to combine the current biogas flaring system with a newly-built electrical generation system.

P3DP developed a financial model for the project to forecast potential proceeds of electricity sales at a higher “green tariff,” and identifying what maintenance, closure and post-closure measures the city can reasonably request from the private partner. P3DP also conducted legal and environmental assessments, prepared the feasibility study and tendering documents, and defined key provisions of the PPP agreement. P3DP also conducted study tours to demonstrate best practices of SWM in Hungary and Austria, which significantly improved the city’s understanding of PPPs.

A Build-Own-Operate-Transfer (BOOT) PPP agreement structure was recommended for the project.

ACTIVITY DURING THE REPORTING PERIOD

In October 2013, the Vinnitsa City Executive Committee approved the PPP Appraisal Opinion and submitted the PPP package to both the MOEDT's PPP Unit and the Ministry of Finance. Over a two-month period, P3DP worked with the agencies by providing necessary information about the benefits of the project and relevant legal requirements and procedures. The project was approved by the Ministry of Finance in December 2013.

MOEDT's PPP Unit approved the project feasibility study submitted by P3DP, allowing the Vinnitsa City Council to proceed with developing the project. In February 2014, the Vinnitsa City Council voted in favor of the PPP, which enabled it to proceed with a competitive and transparent process for identifying a private partner.

P3DP has been helping the Committee finalize the tender documents package, including the draft PPP agreement, tender instructions for bidders, and qualification criteria for evaluation of bids. These were submitted to the municipality for review and an environmental assessment is underway.

The Municipal Working Group amended the tender package and is currently working to prepare official tender decisions by the City Council. The tender is expected in early Year 5.

## RISKS AND MITIGATION

The main risks to this PPP include:

- Volodymyr Groysman, who served as mayor of Vinnitsa at the start of the project, was appointed Deputy Prime Minister for Regional Policy. As a result, key political decision-making in the city related to new investment projects may be slowed down.
- Possible failure to obtain the higher “green tariff” rates, which increase incentives for private operators to participate. Failure to obtain the higher rates will lower the expected return on investment, and hence lower private sector interest;
- A long approval process, creating exposure to unforeseen force majeure events;
- A lower-than-expected supply of biogas at the landfill, which could decrease expected revenue from the PPP.

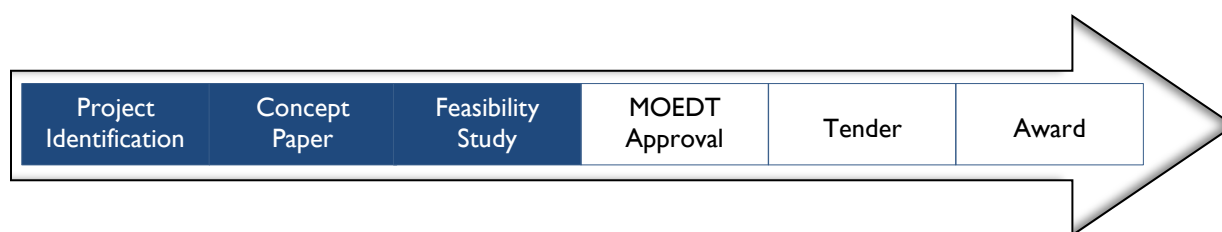
To mitigate current risks, P3DP is taking the following actions:

- Accelerating the PPP project to ensure that approvals, tender and physical construction are completed in a reasonable timeframe. This will enable the operator to apply for the higher green tariff;
- Closely working with the public partner to ensure transparent bidding and provide support in gaining approvals at the national and local level on behalf of the winning bidder;
- Proposal to design the PPP contract with compensation mechanisms that obligate the public partner to cover specific costs should the private operator fail to collect and extract sufficient amount of biogas from the landfill.

## EXPECTED RESULTS

- The project will reduce the need for power from more polluting sources, resulting in reduced gas emissions equaling 20,000 tons of carbon dioxide annually by utilizing methane, which is many times more hazardous than carbon dioxide;
- 380,000 citizens will benefit from better landfill maintenance and a healthier environment at and near the landfill;
- Investments of up to \$3 million are expected, with six new jobs created. The state will benefit from UAH 60 million in taxes during the life of the project;
- The private partner will assume responsibility of the existing landfill, freeing the city to build a new one;
- When successful, the project will provide a roadmap for replication elsewhere in Ukraine.

### 4.4. Ivano-Frankivsk SWM Landfill Gas Treatment and Electricity Production Project



## BACKGROUND

In 2013, a market operator determined that a landfill in Ivano-Frankivsk, a city of 220,000 in western Ukraine, generates sufficient gas for generating electricity. Discussions between P3DP, the Mayor and Governor led to development of a pilot PPP project. A private operator will be responsible for designing, financing, building and operating an electrical generation facility for a fixed term sufficient for extracting all produced biogas, estimated to be about 15 years after closure of the landfill.

P3DP prepared the PPP Concept Paper and began work on the feasibility study. The paper outlines the general structure of the project and provides technical and financial assumptions for the future facilities related to biogas treatment and electricity production. P3DP recommended a Build-Own-Operate-Transfer (BOOT) PPP for the project.

## ACTIVITY DURING THE REPORTING PERIOD

The PPP Pilot Project in Ivano-Frankivsk was delayed by the political crisis, which impacted both the municipality and the Ivano-Frankivsk regional administration. However, on March 20, 2014, the Executive Committee of Ivano-Frankivsk approved a decision to begin preparation of the Pilot PPP Project with P3DP support. P3DP began work on the feasibility study, and a draft was

completed in August. The financial and legal options of the facility and landfill re-cultivation were analyzed.

In June, the municipality committed 100,000 UAH to contract the engineering firm that will prepare technical documents and terms of construction of the grid. The cost, technical, and environmental requirements for connecting the PPP's power generation facility to the electricity grid were also determined.

Electricity generated by the project will be eligible for application of the higher "green tariff" rates, making alternative energy projects more attractive to private investors.

## RISKS AND MITIGATION

The risks that this pilot PPP faces include the following:

- Political conflicts at both the regional and municipal level in Ivano-Frankivsk, compounded by national security issues, may delay project implementation;
- Failure by the public partner to construct the electricity grid from the landfill to electric utility on a timely basis.

To mitigate these risks, P3DP is taking the following actions:

- P3DP maintains close contact with two key stakeholders: the Ivano-Frankivsk municipality and the Ivano-Frankivsk Regional State Administration to facilitate progress on the project;
- P3DP is closely monitoring the political situation in Ivano-Frankivsk and provision of relevant technical and legal information to stakeholders.

## EXPECTED RESULTS

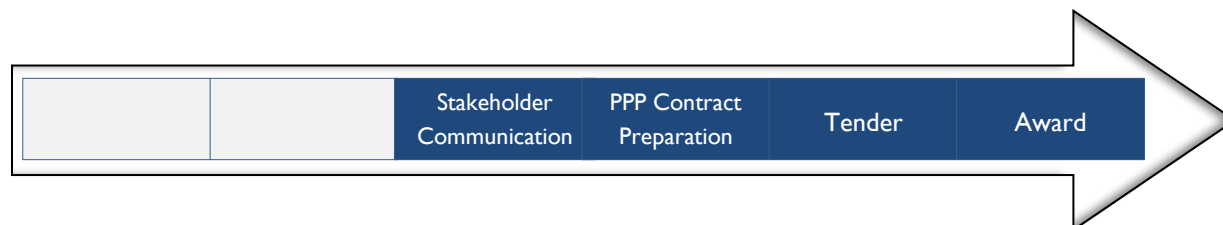
- 220,000 citizens will benefit from greater environmental safety;
- Investments of up to \$3 million are expected, with six new jobs created;
- Generation of electricity using landfill gas will reduce the need for coal-powered electricity, reducing carbon emissions by over 450,000 metric tons of CO<sub>2</sub> equivalent.

## PARKS & RECREATION

Municipal governments in Ukraine typically do not have funds or management capacity maintain and operate sports and recreation facilities, including public parks with green areas. As a result, facilities in many public recreation areas are falling into disrepair. By bringing in the private sector through PPPs, local governments can obtain both financing and operational expertise necessary so that the public can enjoy parks, sports facilities, and other recreational areas.

P3DP has supported two pilot PPP projects to demonstrate how this can be done.

## 4.5. Kyiv Summer Sports and Recreation Facility



### BACKGROUND

In 2013, the Kyiv City State Administration (KCSA) requested P3DP's assistance with a PPP project to create a sports and recreation zone at Dolobetsky Island, located in Kyiv in the Dnipro River. An area of 10.5 hectares was to be made available to a private investor to construct several playgrounds and mobile stadiums – light construction without fixed foundations – while maintaining existing facilities, such as a first aid medical facility, trading pavilion, and several administrative buildings.

Although Kyiv has a mechanism for working with private companies on municipal-owned facilities, it needed a structure suitable for a more complex, long-term transaction that allocates risks and requires capital investments for new facilities. Furthermore, the island is an environmentally sensitive territory and public opinion against its improper development is passionate.

Following P3DP's review of the project feasibility study conducted by the KCSA, the Economics and Investments Department requested P3DP to assist with the tender and PPP contract preparation and conduct stakeholder communication activities to inform stakeholders about project benefits. P3DP commented on the draft contract and provided recommendations on the tender package. P3DP also provided strategic communications advice to inform the public about the project.

P3DP recommended a Build-Own-Operate PPP contract. The project went to tender in July 2013 and a winner was selected. The contract was signed with the Kyiv-based firm Misto Sportu Ltd.

### ACTIVITY DURING THE REPORTING PERIOD

P3DP submitted data for the Environmental Review for the project. The project meets national environmental impact guidelines, as well as improves facilities and protects green areas in and around the park. P3DP reviewed the site of the Kyiv Recreational Facility PPP with international expert Chris Shugart in May 2014. The selected private partner constructed sports facilities and is maintaining green areas. General improvements, including walkways, were co-financed by the operator and the city. P3DP will continue to monitor progress of implementation and performance.



## RISKS AND MITIGATION

During development, the project carried the following risks:

- Low public opinion of the project, which is located in a popular summer leisure area. The public was also opposed to existing kiosks, which were selling alcoholic beverages without necessary permits and contributing to an unsafe environment;
- Low occupancy of facilities due to overall slow economy and unrest;
- Unexpected requirements from the new mayor's administration.

P3DP successfully mitigated these risks as follows:

- P3DP successfully demonstrated that the project required long-term operations of the facilities rather than installation alone, and that this could be achieved by including PPP components into tender and contract;
- With P3DP support and guidance, Kyiv municipality was able to develop the project in a timely manner and take it to tender. P3DP's efforts increase the interest of the Head of Kyiv's municipal administration in successfully implementing this type of project;
- P3DP provided strategic stakeholder communications support to the Kyiv's municipal administration to increase awareness of PPPs and highlight project benefits for the public's health and leisure. This effort was well-received by the public.

## RESULTS

- Citizens of Kyiv have access to an improved, clean public beach, safe access to the Dnipro river, quality facilities for beach soccer, football and other sports on Dolobetsky island;
- Total investments are expected to reach \$4.5 million. Five new jobs have been created, with up to 10 more expected.
- Illegal bars and construction that can harm the environment have been dismantled;
- Most facilities are available free of charge to the public.

### 4.6. Simferopol Urban Park Renewal PPP

The Simferopol Urban Park Renewal PPP has been placed on hold indefinitely because of the Russian occupation of Crimea. This occurred weeks before the project was to be tendered. There are, however, valuable lessons that can be extracted from this project that can be applied to park renewal PPPs in the future. It is therefore valuable to examine the achievements of this PPP.

## BACKGROUND

Simferopol's Gagarin Park, located in the center of the city, has been poorly maintained and has few facilities. The city had been working with P3DP and regional officials to develop a PPP model to attract a private operator to manage both commercial and green areas of the park, thereby creating an environmentally and commercially sustainable recreational space.

The Simferopol PPP Pilot made solid progress in moving towards the PPP tender stage. The feasibility study, environmental assessment and public opinion survey were completed.

Some key project achievements included:

- *Legislative*: clarifying ownership of park assets and transferring them to the city;
- *Land issues*: identifying the best possible legal structure so that the municipality spends the least time for land audit procedures and land allocation.
- *Financial*: constructing a financial model specifying all objects to be constructed, costs of construction and operation through the period of the contract. The model was tested with interested operators, which demonstrated that the project was realistic and achievable.
- *Strategic communications*: conducting an on-site survey to gauge public opinion, identify concerns, and determine what services were desired by the public.

#### ACTIVITY DURING THE REPORTING PERIOD

The Simferopol City Executive Committee approved the PPP Appraisal Opinion and submitted the PPP package for consideration to the Ministry of Finance of Ukraine and the PPP Unit. In February 2014, the MOEDT's PPP Unit approved the project. This gave the Simferopol City Council a green light to proceed towards tender.

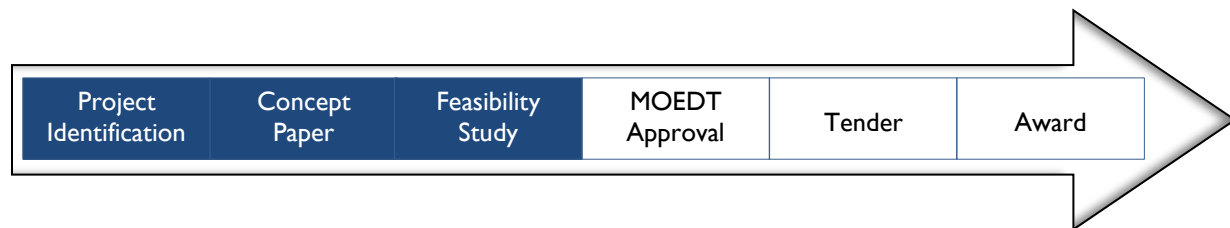
P3DP was in the process of assisting the city in preparing the tender documents when the Russian Federation occupied the peninsula. In spite of the occupation, Simferopol officials continued to seek P3DP support. However, because Crimea is likely to remain under Russian occupation for the duration of the P3DP program, support to this pilot PPP was cancelled in March 2014.

#### URBAN TRANSPORTATION

With steady increases in the number of cars per capita and poor urban planning, driving in Ukrainian cities has become increasingly difficult, contributing to congestion, increased pollution, and reduced quality of life for Ukrainian citizens. Existing transportation infrastructure is insufficient.

P3DP is addressing this challenge in Lviv with a pilot PPP to build a parking facility to reduce congestion in the city center. Many municipal leaders from other cities have expressed interest in the project to serve as a “roadmap” as they look for ways to address traffic and parking issues in their respective cities.

## 4.7. Lviv Parking Management



### BACKGROUND

The lack of parking spaces in central Lviv has led to serious traffic problems that are difficult for drivers and pedestrians alike. P3DP is supporting the Lviv city government in developing Ukraine's first parking management PPP for a multi-level underground garage. This requires revisions to parking legislation, better enforcement of parking regulations, and identifying a private sector partner to finance, build and operate the facility.

P3DP worked with the transportation department and the city's Investment Department to implement the project through a PPP mechanism.

P3DP recommended a Design-Build-Finance-Operate (DBFO) PPP structure for this project, and is considering a concession.

### ACTIVITY DURING THE REPORTING PERIOD

P3DP completed a cost and engineering design report and provided a tentative design for the facility in June 2014. P3DP updated the financial model to learn which financial scenarios can be applied, which expected tariffs level would be feasible, and the recommended project duration. P3DP provided assistance in determining an acceptable level of tariffs and how they should be regulated.

P3DP also prepared a market sounding note that can be used in communications with potential bidders in order to evaluate market potential of the PPP. The city will assess bidder interest using this and other P3DP materials in the coming months.

A positive development that will impact the project was the passage of new laws that impose fines for nonpayment of parking fees and allow towing of improperly parked cars. These will encourage use of parking facilities and make the project more economically viable.

### RISKS AND MITIGATION

Lviv parking PPP, being among the most challenging in P3DP's portfolio, possessed a number of risks:

- The city of Lviv has complex geological and historical underground structures with numerous historical items located underneath the city center;

- The city may be unable to implement parking policies. Drivers may therefore seek free parking spaces on the street, leaving the underground garage without revenue;
- Required changes to legislation may be delayed or not take place, such as modifications to the Administrative Code and other laws;
- The private operator may fail to collect enough revenue to cover its costs;
- The project may encounter opposition from the general public or specific NGOs.

P3DP mitigated these risks as follows:

- Engineering consultants were hired to assess project technical viability. While P3DP was preparing the initial Concept Paper, city architects were consulted to minimize chances that shortlisted locations would contain historical objects or underground water flows;
- P3DP monitored the results of the Lviv Municipality's adoption of local resolutions implementing first steps in parking policies, such as collecting fees from users and disabling illegal parking sites. These were successful, suggesting that it will be possible to enforce parking regulations in the future;
- P3DP has monitored legislative changes in urban parking by certain municipalities and ministries. These suggest that required changes are feasible;
- P3DP recommended that the PPP agreement include compensation mechanisms that obligate the public partner to provide payments should the private partner not collect enough revenue as a result of poor parking law enforcement practices or inability to prohibit parking in the surrounding area. It should also include subsidy and profit sharing mechanisms;
- Due in part to reallocation of P3DP resources, only limited assistance to develop this project is currently planned. P3DP will provide guidance and support in future stakeholder communication efforts to identify concerns of groups and highlight potential benefits of the project; and a preliminary environmental checklist will also be completed to highlight issues that need to be addressed by the city prior to moving ahead with the project.

## EXPECTED RESULTS

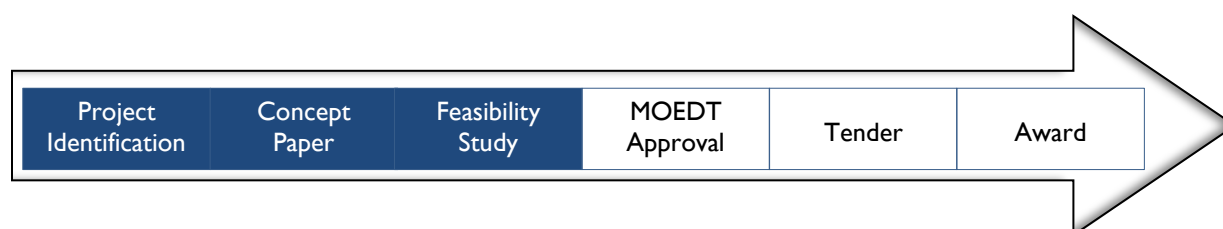
- The project may attract up to \$20 million in private sector investment with ten new jobs created, depending on the size of the garage;
- Illegal parking will be eliminated in a radius of 200 meters from the facility;
- Traffic congestion will improve in the city center business environment while adding to pedestrian areas;
- On-ground parking for 200 bicycles will be created;
- Lviv's pilot method for controlling off-street parking while providing for-pay parking may be adopted by other Ukrainian cities. Many cities have expressed interest in learning from Lviv's efforts to develop the pilot, even if it does not complete tendering.

## EDUCATION

Since the late 1990s, schools in Ukraine have suffered from a rapid decline in population, a lack of funds, and low disposable incomes. Private sector participation in the education sector has the potential to help government find the resources to improve the educational system.

Education PPPs can help governments obtain the resources necessary for modernizing, operating, maintaining and managing educational facilities in partnership with the private sector, which enables school leadership to focus on the content and quality of education.

### 4.8. Kyiv Maintenance of Educational Facilities PPP



## BACKGROUND

The Kyiv Education PPP demonstrates how thorough due diligence during the design stage of a PPP can identify issues in a timely manner, thereby enabling government to restructure the transaction in a more viable manner. City officials initially sought a PPP in which a private operator would build or renovate a kindergarten that charges fees and manage it. Working with city authorities, P3DP completed business and financial models, market testing meetings, and legal reviews.

P3DP's finding showed that a subsidy would be necessary for the project to be attractive to private investors. They also revealed that under existing legislation, the transaction process would be lengthy and cumbersome. P3DP and the City concluded that a new approach would be necessary.

## ACTIVITY DURING THE REPORTING PERIOD

During Year 4, P3DP and the Kyiv City State Administration (KCSA) revised the PPP concept to contract out maintenance and operations of educational facilities in Kyiv's Podil district of Kyiv to a private sector operator. The operator is to provide utility, maintenance and adjacent services to all education facilities on a long-term basis.

P3DP and the KCSA agreed on a number of key points related to the project, including the general approach, implementation schedule, and approval authority of various municipal departments. The Kyiv Department of Education will be the contracting authority.

P3DP's legal expert completed the analysis and initial draft of the legal concept for the project. The optimal type of contract and other legal arrangements between the private operator and municipal partner were determined. The legal concept was submitted to the city for review.

Significant work on the draft financial model was prepared drawing from financial data from 78 education facilities. The data included payments for utilities, maintenance services and all adjacent services with breakdowns for different education facilities.

Political changes had an impact on the process. In 2014, Kyiv elected a new mayor following the ouster of the Yanukovich government and city departments were occupied with administrative change issues. Initially, the PPP pilot was not a priority and progress at the municipal level was delayed.

However, P3DP submitted financial and business model to the newly-appointed head of KCSA, Mr. Bondarenko. For the pilot to succeed, it needs political support from the new mayor and newly-appointed officials in the Economic and Education Departments. The City has acknowledged that budgets are severely constrained and that private sector resources are being viewed as an essential tool in many public service areas, including education.

## RISKS AND MITIGATION

Several factors create risks that could delay the project:

- The change in Ukraine's government, KCSA staff changes, and appointment of the newly-elected mayor may continue to delay the project.
- Ukrainian legislation contains numerous provisions that are not optimal for the project, for example, budget legislation that limits long-term contracts with private sector operators.

P3DP is mitigating these risks by:

- Maintaining regular contact with key decision makers in the City government to educate them on PPPs and the project;
- Ensuring that the recommended legal structure for the PPP conforms to state procurement and communal services legislation. The legal model recommends creation of a KCSA budgetary program to ensure long-term financing of facility maintenance;
- Proposing services under the PPP that are fully covered in the city budget. At the same time, P3DP, under Objective I, is continuing efforts to modify the budget code to enable long-term contracts with private operators.

## EXPECTED RESULTS

- The project will have powerful demonstration effects for the use of PPPs in the educational sector and other areas where the municipality manages assets, with good prospects for replication elsewhere in Ukraine;
- Legislative issues affecting education PPPs will be identified as a result of this pilot;

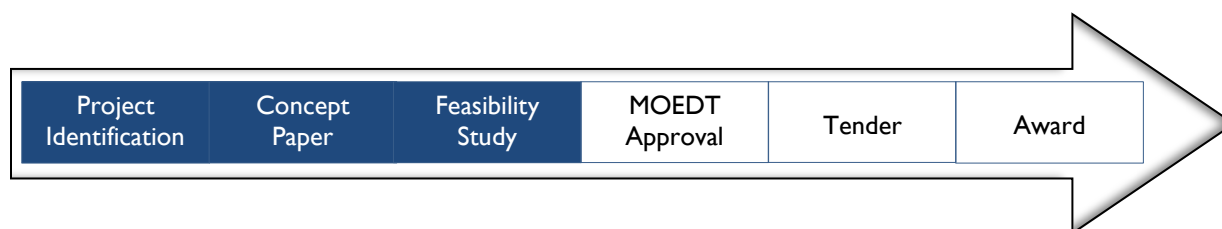
- Educational facilities will be more effectively managed, with maintenance and operations conducted by private operators with the necessary skills and expertise.

## HEALTHCARE

The state-run healthcare system in Ukraine, which guarantees free healthcare to all citizens, faces serious constraints at every level. Funding, facilities, equipment and supplies are inadequate. Doctors are poorly paid and do not have access to modern equipment. Healthcare management is inefficient and encourages corrupt practices. The Ukrainian healthcare system provides poor service and creates a heavy financial burden to the state. Patients also suffer because they have to pay doctors unofficially and buy their own medicine.

Private sector funding, expertise and technology mobilized through public-private partnerships can help address these issues and improve the overall quality of medical services.

### 4.9. Zaporizhia Healthcare PPP



## BACKGROUND

P3DP is working with the municipal government of Zaporizhya to create Ukraine's first healthcare PPP. The project envisages sharing hospital space with a private partner that will renovate facilities, procure modern equipment, and introduce new surgical techniques. The project is expected to attract \$2 million over the 25-year life of the project. If successful, the project has the potential to be replicated elsewhere in Ukraine. The hospital's legal status will remain unchanged and will not affect the free services it provides.

P3DP is playing a central role in this project. In close collaboration with the city, P3DP designed and structured a PPP project that will deliver significant benefits to citizens without imposing additional costs to the city.

Sections of the hospital will be rehabilitated and will obtain new equipment. The amount and quality of medical services in the hospital will increase, taxes and other financial benefits will accrue to local and state budgets, and most importantly, patients will benefit from a wider variety of treatments.



P3DP recommended a Lease-Rent-Operate-Transfer (LROT) structure for this project. It prepared the feasibility study, including the legal review, business model and financial plan. It also increased the capacity of municipal representatives on PPP issues through conferences and training.

## ACTIVITY DURING THE REPORTING PERIOD

During this reporting period, P3DP prepared and submitted the Appraisal Opinion and full PPP package to the Zaporizhya City Executive Committee, including the feasibility study, legal review, business model, and financial model.

The project experienced some delays because of the political crisis, which led to protests and a partial work stoppage of the City Council and Zaporizhya Regional Administration. Changes in regional and municipal leadership, as well as local political struggles, further slowed down the process. Reforms to the healthcare administrative system, which shifted responsibility for the hospital, including its budget, to the Zaporizhya Regional Administration, also caused some delay. These changes introduced new decision makers and broadened and increased the need for effective stakeholder communication.

In response to administrative changes in Zaporizhia's healthcare administration, P3DP conducted a review of the benefits of the envisioned PPP with both the City Council and Regional State Administration to highlight the benefits the project will bring to the community, recommended a legal structure that defends the public interest, clarify project accomplishments, and identified actions necessary for its successful development.

Unfortunately, the champion of this project, Deputy Mayor Yuriy Kaptyukh, passed away unexpectedly. This, as well as local political issues, has delayed final approval by the City Executive Committee. Upon approval, the project package will be submitted to the PPP Unit of the MOEDT and the Ministry of Finance.

Zaporizhia region possesses high potential for economic growth but is currently experiencing sporadic incidents of unrest and conflict. After months of political instability, P3DP discussed the project with the newly-appointed Deputy Mayor Kuzmin in August 2014, who stated that he will champion the city's healthcare PPP project. Later that month, the City Executive Council began evaluating the Feasibility Study. Once it reaches consensus, it will submit the Appraisal Opinion to the MOEDT's PPP unit for review.

## RISKS AND MITIGATION

The Zaporizhya healthcare PPP Project bears the following risks:

- Local political conflicts, as well as frequent change in local leadership, may continue longer than expected, which may result in further delays to the project;

- State medical reform is moving extremely slowly, which may jeopardize the project. Funding of hospitals may be transferred from municipality to regional budget and responsibility;
- The public may not understand the introduced fee-based services.

P3DP is mitigating these risks as follows:

- P3DP met with both the Mayor and representatives of the Governor of Zaporizhya to provide reassurance that the project is well-structured and employs a model that conforms to Ukrainian law, verified by P3DP's legal consultants;
- P3DP continues to monitor progress on state medical reform and prepared a legal opinion regarding the impact of the reform on the project;
- P3DP has conducted numerous meetings with project stakeholders, hospital staff and future patients and is ready to organize additional stakeholder events and communication programs to address their concerns.

## EXPECTED RESULTS

- This will be the first healthcare PPP in Ukraine, opening the door for greater private sector participation in the sector;
- Up to \$2 million in private investment may be mobilized, creating 50 new jobs;
- Citizens of Zaporizhya will benefit from new and higher quality existing healthcare services;
- Tax revenues could bring UAH 100 million to the city and national government over the life of the project.

## ENERGY EFFICIENCY

Energy efficiency is a state priority of the Government of Ukraine and is an important part of its efforts to become energy-independent. This is especially critical at a time when Russia, its main energy supplier, has cut off supply of natural gas.

Ukraine spends more hydrocarbons to produce \$1 of GDP than any other European state. Energy generation is expensive, utilization inefficient, and priced inappropriately to consumers. P3DP worked on one energy efficiency project in Dnipropetrovsk, now on hold pending legislative and tariff reform. Until these reforms are carried out, the project will not be economically viable or attractive to the private sector.

P3DP is working on tariff and energy savings contract related issues under Objective I as a result of its work on this pilot.

## 4.10. Dnipropetrovsk Street Lighting

### BACKGROUND

Dnipropetrovsk is Ukraine's third-largest city and a center for business and industry. Its administration expressed interest in introducing a pilot energy-efficient street lighting system and requested P3DP's support in preparing a pilot PPP to implement it.

P3DP prepared a Concept Paper that included two financing and contracting scenarios, drafted legal, business and technical reviews, and proposed a legal structure. P3DP also approached ten market operators to help determine the type of PPP agreement provisions, restrictions and compensation parameters needed to attract private sector interest in the project.

### ACTIVITY DURING THE REPORTING PERIOD

P3DP's assessment led to the conclusion that a successful PPP in this sector would be unlikely to succeed under Ukraine's current legislation, tariff policies, and business environment. The energy-efficiency market is undeveloped, there are few existing operators, and electricity tariffs are too low to interest private operators. While the concept is sound, national and local legislation needs to be amended and energy tariffs increased before the project model is bankable and economically viable.

P3DP has placed this project on hold until these constraints can be effectively mitigated.

### RISKS AND MITIGATION

This pilot PPP brought a number of legislative issues to light which hinder PPPs in this sector. P3DP is addressing them under Objective 1, and the project may be revisited after key reforms are enacted. The primary issues include:

- Existing legislation prevents the city from making long-term budget commitments. For the project to be attractive, a period of at least two or three years is necessary.
- An opaque and inconsistent tariff calculation methodology must be improved.

### POTENTIAL BENEFITS

If the above-mentioned risks are successfully mitigated, P3DP's analysis suggests Ukrainian cities implementing energy-efficiency street light project similar to this pilot may enjoy the following benefits:

- Significant reduction in energy consumption and costs, attraction of private sector financing, and creation of jobs;
- Higher lighting quality;
- Transfer of financing and technical risks to a private partner;
- Up to \$1 million mobilized in private investments;
- Kyiv is planning to take a loan from EBRD on a similar project, and could benefit from P3DP's experience.

#### 4.11. Objective 4 Plans for Year 5

- *Malyn Biofuel*: P3DP will participate in the opening event, by which time heat will already be provided to schools. The Program will provide ongoing support and monitoring. It will also prepare materials to simplify replication of the project in other cities and share them with the PPP Unit.
- *Vinnitsa SWM Landfill Gas*: P3DP will support the tendering process to ensure it is held in a transparent manner after the City Executive Committee decision PPP Unit Approval. Some prospective legislation increasing the “green tariff” for energy generated from biogas by up to three times may be adopted, which will make these projects even more attractive. Some cities might wait for the legislation to pass before calling tenders on their landfills.
- *Ivano-Frankivsk SWM Landfill Gas*: The feasibility and legal due diligence will be completed and presented to the city and key stakeholders. The city will start active discussion of the project with stakeholders. P3DP will start working on PPP appraisal opinion for the City Executive Committee’s decision. It will also conduct broad awareness raising activities and hold several market sounding events.
- *Lviv Parking*: P3DP will provide guidance and limited support related to stakeholder communications and preliminary environmental assessment to identify issues.
- *Kyiv Educational Facilities Maintenance*: The project will be presented to the new mayor’s administrative team, and expects to get a clear go or no-go decision.
- *Zaporizhya Healthcare*: P3DP will work with the newly-appointed deputy mayor to ensure that the City Executive Committee prepares and adopts the decision to approve the project and submit it to the PPP Unit.
- *Kyiv Summer Sports*: P3DP will monitor progress of the project, with multiple site visits.
- *Simferopol Park*: P3DP suspended technical assistance activities due to the occupation of Crimea by the Russian Federation.
- *Dnipropetrovsk Street Lighting*: Project on hold pending legislative revisions.

## As Winter Begins, P3DP Contributes to Ukraine's First Biofuel Heating PPP

### *Ukrainian town uses renewable energy PPP to keep schoolchildren warm in winter*

For decades, Ukraine has been dependent on natural gas imports from Russia for heating. But reliable gas supplies have been threatened by ongoing price disputes and an armed conflict between Ukraine and Russia.

In Malyn, a town of 27,000 in Ukraine's Zhytomyr Region, city officials looked into using wooden or straw pellets as an alternative, renewable biofuel. Straw, an agricultural by-product abundant in Ukraine, burns at a high temperature when compressed into pellets and can be used as a substitute for gas. Furthermore, it doesn't contribute to greenhouse gas emissions, as the carbon released by burning equals the carbon absorbed by crops during the growing season. The city asked P3DP for support in a PPP transaction in which a private-sector operator would build and manage a biofuel heating system for schools.

P3DP's studies showed that using straw or wooden pellets as a substitute for natural gas is economically feasible and does not present health risks to the public. Furthermore, improved efficiency will enable Malyn to increase temperatures at its schools, which is expected to reduce absenteeism due to illness.

In February 2014, the City Council of Malyn announced the PPP tender. In April, the Council formally approved the Tender Commission's selection of a private partner, thereby authorizing the mayor to conclude a contract with the winning bidder. This made the Malyn project the first city in Ukraine to convert a natural gas boiler to an alternative fuel one through a PPP. The project will serve as a model for other Ukrainian cities for using renewable fuel in place of imported natural gas.

The PPP agreement was signed in September 2014. Installation of equipment has begun and will be completed in time for the 2014-15 heating season. Expected benefits include:

- Municipal energy cost reductions of at least ten percent;
- Over 1,600 students and teachers to benefit from warmer and more reliable heating;
- Carbon emissions to be reduced by over 11,000 tons over the life of the project;
- Demonstration of the feasibility of using pellets as a carbon-neutral renewable fuel source in Ukraine;
- Attraction of up to \$300,000 in new investments; and
- Greater energy independence for Ukraine.

## P3DP Coordination with USAID and Other International Donors

*After four years of developing PPPs in Ukraine using a collaborative approach, P3DP has become a valuable partner to IFC, the World Bank, the European Union, and other international institutions seeking a role for the private sector in their own projects. P3DP's ongoing work with the Ministry of Economic Development and Trade has developed competence in PPP policy and legislative issues. Collaboration with donors and projects allows P3DP to leverage its experience with that of other developmental institutions to maximize the impact of assistance.*

P3DP's knowledge and experience in developing PPPs in Ukraine have made it a valuable partner on PPP-related issues. During Year 4, P3DP reached out to and was approached by numerous organizations to collaborate on PPP-related issues, including policy, legislation, and investment projects. Recent examples include:

- P3DP worked with IFC, the private sector arm of the World Bank Group, to provide support on the legislative review of the road concession laws related to a multi-year, multi-million dollar transportation project;
- P3DP and the American Chamber of Commerce established the PPP & Infrastructure Support Center (PIEC), providing a platform to promote dialogue for investors, lending institutions, NGOs and other private sector operators in influencing government policies and facilitating PPP project development.



By collaborating with government and integrating our efforts with the private sector, NGOs and other development institutions, we expect to leave a lasting and positive mark on Ukraine.

The following table describes some of P3DP's collaborative relationships with other USAID-funded and international organizations:

| UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT                     |   |
|--|---|
| <b>AgroInvest</b>  | P3DP cooperated with USAID AgroInvest and USAID Water for Crimean Agri Sector projects in supporting the development of PPPs in the agriculture sector. They presented at a joint conference <i>PPPs in Agriculture</i> in December 2013.   |
| <b>Commercial law Center (CLC)</b>                                     | CLC partners with P3DP on developing legislation to enhance the regulatory environment for PPPs in Ukraine. In the last year, cooperation between P3DP and CLC included participation and coordination in the Parliament PPP Working Group, development of the national PPP policy, adopted by the CMU on August 14, 2013, and the drafting of the Law on PPP Strategy and amendments to the current PPP Law.   |
| <b>DIALOGUE</b>  | P3DP led a Public-Private Partnership seminar at the IX Ukrainian Municipal Forum, organized jointly by the DIALOGUE project and the MLED in June 2013. The seminar provided an overview of private sector experience in sectors where P3DP is developing its pilot PPP projects, such as energy efficiency, renewable energy, landfill biogas extraction, and healthcare. Discussion focused on opportunities and benefits of involving private companies in delivering infrastructure and public services through PPPs. |
| <b>Local Alternative Energy Solutions in Myrhorod Project (LAESM)</b>  | LAESM is cooperating with P3DP on developing PPP mechanisms in energy efficiency and on using alternate fuel sources to heat public buildings. P3DP and LAESM are preparing an MoU to provide guidance to the collaborative efforts.  |
| <b>Municipal Finance Strengthening Initiative (MSFI)</b>               | MSFI's role is critical for P3DP's activities in light of current budget legislation constraints. P3DP provided input to MSFI legislation development activities, such as Budget Code and other legislative amendments regarding long-term budget obligations. P3DP advocated for MSFI's recommendations in its discussions with local governments.   |
| <b>Municipal Heating Reform (MHR)</b>                                  | P3DP and MHR's collaboration included a review of the regulatory and legislative framework supporting municipal PPP projects, participation in key working groups on communal sector reforms, and direct collaboration with PPP projects such as Dnepropetrovsk PPP Street Lighting.  |
| <b>Myrhorod Biofuel Municipal Heating project (MDI/MADEM)</b>          | P3DP is supporting the Myrhorod Biofuel Municipal Heating project, being implemented by the MDI/MADEM. The project will introduce use of alternative biofuels through a PPP for municipal heating in Myrhorod, a city of about 40,000 in the Poltava Region. Lessons learned from P3DP's Malyn project are expected to be beneficial to the Myrhorod effort.  |
| <b>Partnership for Cleaner Energy Project</b>                          | P3DP is cooperating with the USAID Partnership for Cleaner Energy Project, implemented by the East Europe Foundation, on global climate change by sharing its experience in implementing clean energy solutions through PPP mechanisms.   |
| CANADIAN DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE (DFAIT) |   |
| <b>Ukraine Municipal Local Economic Development (MLED)</b>             | MLED and P3DP worked together in cooperation with a private company, DTEC, on solid waste management in Pavlograd. P3DP will provide its transaction support for this complex project. In addition, both projects participated in public events on critical economic, financial, and social issues.   |



| <b>DEUTSCHE GESELLSCHAFT FÜR INTERNATIONALE ZUSAMMENARBEIT (GIZ) GMBH</b>                 |  |
|---|--|
| <b>Energy Efficiency in Buildings</b>   | The GIZ project provided information and consultations regarding the legal framework for potential PPPs in public building management and energy efficiency. This information was used for Malyn PPP project development (heating, energy efficiency and alternative fuel) and may be applicable to similar projects in the future.  |
| <b>SWISS COOPERATION OFFICE UKRAINE</b>   |  |
| <b>Swiss-Ukrainian Decentralization Support Project (DESPRO)</b>                          | P3DP supported DESPRO through consultations in solid waste management and on improving local governance and the municipal environment.   |
| <b>INTERNATIONAL FINANCIAL INSTITUTIONS</b>   |  |
| <b>European Bank for Reconstruction and Development (EBRD)</b>                            | EBRD provides consultation on PPP pilot project development especially in the sector of energy efficiency, and municipal infrastructure.   |
| <b>International Bank for Reconstruction and Development/ The World Bank Group (IBRD)</b> | IBRD has been active in promoting PPPs since 2006, but these activities were limited to road construction and preparations for the Euro 2012 Soccer Competition. At present, IBRD is working on the preparation of the Second Urban Infrastructure Project. IBRD plans to promote PPPs as a tool for some components of the project. P3DP provides significant input to this activity with PPP-related consultations, information exchange and legislation development, for example, in the methodology for setting tariffs in solid waste management. |
| <b>International Financial Corporation (IFC)</b>  | IFC provides advice on developing PPP projects, best practices and transaction support. P3DP and IFC cooperated on providing support to the GOU regarding Kyiv Ring Road Construction Project.   |

## Program Administration

## Specialized Expertise

*P3DP recognizes the importance of a well-functioning administrative support system that enables program staff and experts to get the job done. Effective hiring and staff development is a priority for P3DP to ensure that its finance, compliance, procurement, logistics, human resources and other administrative functions help the program meet its objectives. Program administration also ensures that P3DP complies with both USAID and Ukrainian regulations.*

### Staff Changes

During the reporting period, Nellie Makary, the Manager of P3DP's Government of Ukraine Development Support, resigned to pursue other opportunities. Given the major changes in the Ukrainian government due to the Maidan protests and establishment of new leadership, P3DP decided to delay staffing decisions related to this function.

In August 2014, Oleksandra Chala was promoted to serve as the Coordinator for assistance activities supporting the Government of Ukraine.

No other staff changes occurred during the reporting period.

### Specialized Expertise

In order to maximize Program flexibility across numerous sectors during a time of significant political, economic and social changes, P3DP procured specialized expertise through local and international consultants throughout Year 4 in the area of legal and regulatory reform, investment project development, and capacity building. A list of consultants engaged can be found in Annex 3.

### Program Accreditation

P3DP has received an updated accreditation card due to the changes that occurred in FHI360 RESPOND project and made necessary amendments to P3DP banking procedures.

## Annexes

- Annex 1: P3DP Y4Q4 Performance Monitoring Report
- Annex 2: P3DP Recommendations on the Legislative and Institutional Framework for PPPs
- Annex 3: Listing of P3DP PPP Experts, Legal and Technical Consultants, and Other Support
- Annex 4: Guidelines Note #1 - Unsolicited bids and single bidders
- Annex 5: Guidelines Note #2 - Fiscal control and municipal PPPs
- Annex 6: Study Tour Report - Poland
- Annex 7: Study Tour Report - Turkey
- Annex 8: Aide Memoire on Highway PPP Legislation
- Annex 9: P3DP Year 4 Policy Meetings